

BANKRUPTCY REFORM ACT OF 1978 (Oversight on Grain Elevator Insolvencies)

HEARING
BEFORE THE
SUBCOMMITTEE ON COURTS
OF THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
NINETY-SEVENTH CONGRESS
SECOND SESSION
ON
BANKRUPTCY REFORM ACT OF 1978
(OVERSIGHT ON GRAIN ELEVATOR INSOLVENCIES)

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BANKRUPTCY REFORM ACT OF 1978 (Oversight on Grain Elevator Insolvencies)

TUESDAY, MAY 18, 1982

**U.S. SENATE,
SUBCOMMITTEE ON COURTS,
COMMITTEE ON THE JUDICIARY,
*Washington, D.C.***

The subcommittee met, pursuant to notice, at 10 a.m., in room 2221, Dirksen Senate Office Building, Senator Robert Dole (chairman of the subcommittee) presiding.

Also present: Senators Boren, Jepsen, Grassley, Danforth, and Eagleton.

Staff present: Richard W. Velde, majority chief counsel and staff director; Arthur Briskman, minority chief counsel; Doug Comer, counsel; and Patricia Brown, chief clerk, Subcommittee on Courts; Will Lucius, counsel, Committee on the Judiciary; Russell Pallesen, professional staff member, Subcommittee on Agency Administration; Walt Riker and Scott Richardson, press agents for Senator Dole; Jay Morgan, counsel's assistant, Finance Committee; Ken Auer, professional staff member, Appropriations Committee; Kellye Eversole, counsel to Senator Boren; and John Blount, counsel to Congressman Emerson.

OPENING STATEMENT OF SENATOR ROBERT DOLE

Senator DOLE. First, I want to welcome our witnesses here this morning and Congressman Bill Emerson and Senator Eagleton. Senator Jepsen was here, but he had another hearing. I might say that I will make a brief opening statement; and, if Senator Eagleton has anything to say, he will follow. Senator Danforth may be here, and then I will ask Congressman Emerson to make whatever statement he wishes to make and then introduce the witnesses.

First, let me indicate that we are having this subcommittee hearing this morning to receive further testimony concerning the problems created for farmers by grain elevator bankruptcies. This is a third in a series of hearings that this subcommittee has conducted on this issue, and we hope it will be the last.

In April and May 1981, the subcommittee heard testimony from individual farmers and farm organizations, bankers, and officials of State and Federal agricultural agencies who were unanimous in their support for legislation which would remedy the procedural defects in bankruptcy law which have prevented farmers from recovering their crops from insolvent elevators for months and even years after the filing of bankruptcy petitions. I might say, as an

aside, that I had some personal experience in that when I was a young county attorney in Russell County, Kans. It takes a long time.

In response to that testimony, I introduced, in April 1981, S. 1365, a bill which addresses the problems identified before our subcommittee. That bill passed the Senate by unanimous vote on three separate occasions—once as independent legislation in September 1981, and twice as amendments to other related measures in November and December of the same year.

S. 1365 was introduced in the House of Representatives last year by Congressman Bill Emerson of Missouri, and is now pending in the House Judiciary Committee. Regrettably, that committee has not yet acted on the legislation, in spite of mounting pressures facing farmers across this Nation as a result of a steadily increasing rate of elevator failures.

National attention was originally focused upon this problem by Mr. Wayne Cryts, a farmer from Puxico, Mo. In August 1980, the elevator where Mr. Cryts had his soybeans in storage went bankrupt. After 7 months of fruitless efforts in the bankruptcy court in Little Rock, Ark., Mr. Cryts acted on his own—in violation of court orders—to recover his beans from the elevator at Ristine, Mo. The bankruptcy court ordered Mr. Cryts to reveal the names of the farmers who helped him remove those beans, and he refused to comply with that order. As a result, he is now incarcerated in the Pope County Detention Center in Russellville, Ark., on a contempt citation.

[A chronology of the Cryts case, submitted by Senator Dole, follows:]

CHRONOLOGY: CRYTS CASE

1. August 8, 1980: James Brothers Elevator Company declares insolvency, notifies Missouri Department of Agriculture of intent to surrender possession of warehouse and crops stored therein to the Department.

2. Missouri Department of Agriculture audit shows sufficient crops on hand to meet storage obligations.

3. August 11, 1980: Bankruptcy petitions filed in Arkansas Bankruptcy Court. Trustee obtains order from bankruptcy court allowing him to operate the business. Trustee announces intention to sell grain out of elevator to satisfy outstanding sale contracts, and requires farmers to deliver additional grain owed on purchase contracts to the elevator.

4. September 1980: Farmers barricade elevator to prevent unloading of grain.

5. September 17, 1980: U.S. Marshals sent to the elevator in force to remove persons blockading the facility. Missouri receiver delivers possession of elevator to the trustee in bankruptcy under protest.

6. October 1980: Bankruptcy judge determines that trustee may sell grain without regard to ownership. Missouri Department of Agriculture obtains injunction in state court, and the bankruptcy court cites the state court for contempt. The decision of the bankruptcy court to allow sale is appealed to the Eighth Circuit.

7. February 1981: Wayne Cryts, with help of several hundred farmers, removes 31,000 bushels of soybeans from the bankrupt elevator without court approval.

8. March 1981: Cryts case submitted to Federal Grand Jury for indictment (Charge: theft of property in custody of bankruptcy court). Grand Jury refuses to indict.

9. April 1981: Eighth Circuit holds that bankruptcy court has jurisdiction over grain assets of elevator, but notes the importance of ownership interests of farmers and encourages bankruptcy court to expedite determinations of title and distribute grain or proceeds thereof.

10. Early 1982: Cryts cited for contempt of court for removal of beans, and fined in excess of \$200,000.

11. April 1982: Bankruptcy court grants immunity to Cryts and orders him to reveal names of farmers who helped him remove beans. Cryts refuses, and bankruptcy judge orders him jailed for contempt.

Senator DOLE. While we do not—and cannot—condone the actions of any individual who takes the law into his own hands, it is clear that the Federal bankruptcy laws helped create the circumstances which have brought Mr. Cryts and thousands of farmers like him, who hold crops in bankrupt elevators, to a point of utter desperation. Unless those laws are changed, these farmers face total financial ruin. We can only hope that our efforts can produce results. I want to welcome Mr. Cryts, Congressman Emerson, and Senator Eagleton and others who may appear today.

Wayne Cryts has a story to tell that the Members of this Congress—particularly our colleagues in the House—need to hear. That is the purpose of our hearing today. I want to welcome Mr. Cryts and Congressman Bill Emerson, who has sponsored my legislation in the House. Congressman Emerson has a few brief remarks he would like to make.

Finally, before we proceed, I want to express my appreciation to bankruptcy Judge Charles Baker of Little Rock, who has been most cooperative with our efforts to bring Mr. Cryts before the subcommittee. Judge Baker generously allowed Mr. Cryts to post a signature bond for the purpose of traveling to Washington to present his testimony. Senator Eagleton.

**STATEMENT OF HON. THOMAS F. EAGLETON, A U.S. SENATOR
FROM THE STATE OF MISSOURI**

Senator EAGLETON. Thank you, Mr. Chairman. I want to first compliment you and the subcommittee for these hearings. The case that we are considering this morning, the case of Wayne Cryts, illustrates the desperation of the situation and the urgency of taking some corrective action.

Last year, Senator Dole steered through the Senate a measure which would give farmers preferred standing in any bankruptcy proceeding, and limit the time for settlement of the dispute. I was an original cosponsor of that measure, and believe it would help to alleviate the problem. Of course, what we now need is for the House to move quickly to enact that bill.

In addition, on May 5, I introduced S. 2486, which has been referred to the Senate Agriculture Committee, on which Senator Dole likewise serves. That bill would authorize the Secretary of Agriculture to purchase grain held in a bankrupt elevator, paying market prices to the farmer, so that he will not be a party to a long, drawn-out, uncertain legal struggle. That bill of mine is cosponsored by Senators Huddleston, Hatfield, Baucus, Melcher, Johnston, Boren, Zorinsky, and Sarbanes. The matter of immediate and top priority at the moment is Senator Dole's bill, and I join with Senator Dole in urging that the House give prompt and expeditious attention to that measure.

Thank you, Mr. Chairman.

Senator DOLE. Thank you, Senator Eagleton. We have been joined by Senator Boren of Oklahoma. Senator Boren.

**STATEMENT OF HON. DAVID L. BOREN, A U.S. SENATOR FROM
THE STATE OF OKLAHOMA**

Senator BOREN. Thank you, Mr. Chairman. I want to commend you and Senator Eagleton for sponsoring the legislation which you have introduced in the past. I have been a cosponsor of both pieces of legislation. We certainly shouldn't have to worry about the flow of grain into the market and the possibility of bankruptcies of grain elevators in addition to the other economic problems that are being faced by our farmers. I am also very pleased that Mr. Cryts is here today to testify, and certainly feel he has sacrificed a great deal in order to bring to the attention of the public and to the attention of the Congress the very unjust aspects of our bankruptcy laws which bring us to this point. I want to mention, Mr. Chairman, that the State senate of Oklahoma, my home State, recently adopted a resolution asking our State's congressional delegation to support the changes in the bankruptcy laws, and expressing their great support and sympathy for Mr. Cryts in the current legal situation that he faces. We are proud of our State legislature for taking this action, and I am pleased to be with you this morning. I ask unanimous consent that the balance of my remarks appear in the record.

Senator DOLE. Thank you very much, Senator Boren, for your continued interest in this matter, and as a member of the Agriculture Committee we appreciate your being here this morning.

[The prepared statement and article submitted by Senator Boren follow:]

PREPARED STATEMENT OF SENATOR DAVID L. BOREN

I commend Senator Dole for conducting these hearings on a very serious problem we are facing today in agriculture—grain elevator bankruptcies. The seriousness of this problem is demonstrated by the fact that the U.S.D.A. established the Grain Elevator Task Force last year.

This task force, in its Report to the Secretary last year, stated that the two major causes of grain elevator bankruptcies are the current state of the economy and the high interest rate being charged for businesses. Between January 1975 and August 1981, there were 177 grain elevator bankruptcies. This is an alarming amount particularly when one considers that the economic situation has worsened since last August. We can thus expect the problem to grow more serious in the near future with more and more elevators declaring bankruptcy.

Grain elevator bankruptcies pose a very real threat to our grain farmers, as the present bankruptcy laws simply do not afford protections for the farmer who finds himself caught in these kinds of situations. Under current law, when a farmer places his grain in a warehouse which later goes bankrupt, he finds that his grain is considered an asset of the grain warehouse company to be used for settlement of all outstanding debts of that company. Further, he finds that it may be months, or even years, before he finds out how much he will be paid back, if any.

As it is essential that a farmer be able to sell his crops, he may incur losses if he cannot obtain his crops from the warehouse where he placed them. Consequently, we must have a sound grain warehouse system the farmers can depend on and one which eliminates the loss potential.

I am pleased that Mr. Wayne Cryts, of Missouri, can be here today to testify, as certainly he has sacrificed everything in order to bring attention to a very unjust aspect of our bankruptcy laws. And indeed attention was focused on this as the Senate immediately addressed the problem in passing S. 1365 last year which the House has failed to act on. Even though this bill did make some progress in getting the situation resolved, I believe we must do more to ensure that our farmers are given a fair shake when an elevator goes bankrupt. I have co-sponsored S. 2486 which strengthens the bill passed last year.

I thank the Chairman for calling these hearings and hopefully we can all work together to ensure that no one else has to go to jail to get what is rightfully his.

[From the Garden City (Kans.) Telegram, May 14, 1982]

OKLAHOMA SENATE SUPPORTS CRYTS

OKLAHOMA CITY.—The Oklahoma Senate has adopted a resolution supporting Wayne Cryts, a jailed Missouri farmer who retrieved from a grain elevator 31,640 bushels of his soybeans that were involved in a bankruptcy case.

The resolution, adopted Thursday on a voice vote, urges that Cryts be released immediately from a Russellville, Ark., detention center, where he was being held on civil contempt charges for declining to say who helped him remove the soybeans.

Cryts was jailed last month after refusing to tell a federal bankruptcy judge who helped him remove the beans from an elevator in Bernie, Mo., last July. The beans were tied up in a bankruptcy proceeding involving a James Brothers elevator in New Madrid County, Mo.

The resolution asked the state's congressional delegation to support laws to "remove the inequities in the federal bankruptcy laws that led to the incarceration of Wayne Cryts, a farmer who just wanted to retrieve his rightful property."

Senator DOLE. I also ask consent that we might place in the record other editorials that appeared in the Kansas City Times and other papers throughout the country, which indicate the need to change the bankruptcy laws. Having said that, we will include those editorial comments and other news stories in reference to this specific case.

[Editorials and newsstories referred to follow:]

[From the Sedan (Kans.) Times-Star, May 5, 1982]

WHEN TO SAY, "ENOUGH IS ENOUGH"

The events which led to the jailing last week of Missouri farmer Wayne Cryts, dramatically illustrates the tough situation the American farmer faces. But, it is not only the farmers' problem, it is ours as well.

Cryts was sent to jail because he refused to tell a judge who helped him "recover" soybeans he had stored in a bankrupt grain elevator. The removal of the grain from the bankrupt elevator by Cryts and his friends was something just short of revolutionary.

One cannot blame the farmer for doing what he felt was right. The present bankruptcy laws give those who have grain stored in elevators no more right to claim it than any other creditor down the line. The grain is technically Cryts', but by law, he could not remove it until the bankruptcy was settled. The fallacy of the present system is that the law makes no distinction on ownership; therefore, the judges often come down on the side of the debtor, and the farmer-grain owner is virtually powerless.

Because Wayne Cryts has gone to jail on a contempt of court charge, the politicians in Washington are beginning to see the irregularity in the current bankruptcy law. Kansas Senator Bob Dole has sponsored a bill which would give farmers storing grain in bankrupt elevators high priority when the elevators' accounts are settled. Dole's proposal has bogged-down in the House Judiciary Committee, and its future is uncertain. Lawmakers must heed the cries from the people and do something now.

The drastic measure Cryts and his band of angry farmers took, also indicates a desperate attitude on the part of the American farm family.

At one point, all farmers had to worry about was a change in the weather. Today, farmers are faced with changes in government farm policies, changing interest rates which threaten to choke the family farm out of existence, and changes in people's attitudes towards one another and values the people of this country have always stood for.

The farmers are worried. We in the cities and towns have yet to fully realize the situation. They see themselves being manipulated into a position the most rational of men fear—losing control. American agriculture, like so many other areas of the present American society, teeters on the brink of losing control.

Wayne Cryts and his friends cannot be blamed for defiantly placing their collective feet down and saying, "We've had it." The time has come for that to happen across a broad spectrum of our society. We do not advocate a wholesale revolution. Changes can be made within the system as long as the lawmakers and the judges quit ignoring the cries of the people. The system can and must correct its flaws.

For Wayne Cryts it took a brave act to get the attention of the Congress and the courts. He is paying for that brave act by sitting in jail. There will be more cases and more acts until we all begin to wake up.

If those changes are to come; however, it will take more than a small group of mid-western farmers, more than the citizens of the cities and towns, and more than a handful of lawmakers—it will take us all to say, "Enough is enough!"

[From the Kansas City Times, May 8, 1982]

GRAIN SHOULD BE SAFE

A Puxico, Mo., farmer named Wayne Cryts has caused considerable support to develop in Midwestern farm states for stronger legislation dealing with grain elevator bankruptcies. Mr. Cryts, who has become a sort of folk hero among his peers, broke into a closed elevator to take stored grain he contended was his. He now is serving time in an Arkansas jail for civil contempt. There is talk of no less than a presidential pardon for his sins.

A number of congressmen have been quick to introduce legislation which would speed up the timetable for disposition of elevator bankruptcy cases. The idea is to give farmers quicker access to their grain instead of requiring them to wait months, even years, while court proceedings drone on. Considering the attention that has been focused on this very real pocketbook issue for farmers, it is a mystery why Congress has not enacted any law.

Now a related issue has arisen in northern Missouri, where a shortfall of grain was discovered at an elevator and at a grain dealership. In a recent meeting at Chillicothe with agriculture officials, farmers contended that state bonding requirements on grain dealers are not strict enough to ensure protection from losses.

In other states, a lack of adequate bonding laws has led to financial problems in small, state-licensed elevators. A Kansas legislative panel studying the problem of elevator closures last year recommended that farmers protect themselves by buying personal insurance or belonging to grain associations with insurance.

Missouri is considered to have strict bonding laws when it comes to warehouses, but in recent years has relaxed its requirements relating to bonding of grain dealers. The cost to the dealers to secure a bond has been considered exorbitant by some, and that cost has meant the possible closure of some dealerships.

There must be a reasonable compromise. Farmers certainly need to institute measures of self-protection, and to consider carefully where to store their grain. They should be aware of warning signs, such as receiving late payment for grain, which could mean a dealer is having trouble.

But state and federal officials also need to do all they can. More stringent state bonding requirements for the operator, or grain dealer, should be considered in light of the potential problems. And any of the proposed changes in federal bankruptcy laws would be better than the current situation. Farmers must have assurance that the grain they store will be safe, and will remain under their control, until they sell it.

[From the St. Louis Post-Dispatch, May 5, 1982]

SOYBEANS AND BANKRUPTCY

The outrageous confinement of Missouri farmer Wayne Cryts for contempt of court for refusing to name those who helped him remove his soybeans from federal control keeps the issue of grain warehouse bankruptcies in the national spotlight. It has been more than a year since Mr. Cryts first took his soybeans in defiance of a federal bankruptcy court order and pointed out the deficiencies in the bankruptcy laws as they apply to grain elevators and farmers. But despite the Senate passage—three times—of a bill that would rectify the problem, a companion measure has languished in the House. It is time that chamber acted.

The Cryts case at first appeared simple. The Puxico farmer stored 31,000 bushels of soybeans at an elevator owned by the James Brothers Elevator Co. and received warehousing receipts that, under the Missouri Grain Warehouse Law, were proof of

legal title to the beans. They were his soybeans; he was just renting storage space. After the James Brothers business declared bankruptcy, however, a federal judge ruled that the contents of the elevators would be considered assets of the James brothers and that farmers had to stand in line with the rest of the creditors.

Beside the principle of the matter—that title should not transfer to a person who is simply storing property for someone—the case is important because of the time factor. The James Brothers Co. filed for bankruptcy in the summer of 1980, and the case is not yet resolved. Farmers live with many fluctuations—weather and market price particularly—but they should not have to have their survival dependent on delays that may occur in bankruptcy courts.

Addressing that delay is one of the important points in the bill sponsored by Sen. Robert Dole in the Senate and Rep. Bill Emerson of Missouri in the House. The legislation would require the bankruptcy judge to recognize warehouse and scale receipts as proof of ownership and would set a firm time limit of 110 days by which the judge would have to decide disposition of assets. Also, farmers who, unlike Mr. Cryts, had sold their grain to the elevator but who had not been paid when bankruptcy was declared would become secured rather than, unsecured creditors. Recently, a weaker bill was reported out of the House Judiciary Committee. It would require bankruptcy judges to rule expeditiously on the concerns of farmers. That is not sufficient.

The bankruptcy court should be given a strict timetable so that "expeditiously" cannot turn into "eventually." Still, farmers with a strict storage arrangement deserve more protection than even the Dole-Emerson proposal would provide. Sen. Eagleton has introduced legislation that would empower the Agriculture Department's Commodity Credit Corp. to purchase grain stored in bankrupt elevators and give the cash value to the farmers who held the receipts. This would ensure that the farmers receive the value of their grain promptly, if not the actual grain. As such, the Eagleton proposal is a welcomed addition to legislation that ought to be passed quickly by Congress.

Senator DOLE. I would like to ask Congressman Bill Emerson, who has been in the forefront of this struggle—I will pause a moment.

Senator Grassley, who has been near the forefront of this struggle, and if Senator Grassley has any comments, he may have that chance. We have just made brief statements indicating we should change the bankruptcy laws. Senator Grassley is a cosponsor of that measure. Do you have anything to say?

STATEMENT OF SENATOR CHARLES E. GRASSLEY

Senator GRASSLEY. The only statement I have to make, Mr. Chairman, is that last week I wrote a letter to the President, asking him to take interest in this matter. I think that we need to bring the heaviest pressure from Government to bear not only on a change in the law, but the righting of a wrong in this particular instance against this particular individual.

Senator DOLE. Thank you, Senator Grassley.

Now, Congressman Bill Emerson has been in the forefront of this effort, and on the firing line, I might add. We are pleased to have you here this morning, Bill, and we appreciate your helping make the arrangements to have Mr. Cryts here this morning. Is there anything you would care to say at this time?

STATEMENTS OF HON. BILL EMERSON, A U.S. REPRESENTATIVE FROM THE STATE OF MISSOURI, AND WAYNE CRYTS, FARMER AND MEMBER OF THE AMERICAN AGRICULTURE MOVEMENT, PUXICO, MO., ACCOMPANIED BY SANDY CRYTS

Mr. EMERSON. Thank you, Mr. Chairman, Senator Eagleton, Senator Boren, and Senator Grassley. I am very grateful to have this opportunity to appear before you today. I am grateful to the sub-

committee for giving the man sitting next to me the opportunity to give his story. It is an incredible story. He was a man who found himself a victim of unfair laws and chose to fight rather than allow a gross injustice to go unchallenged. This individual, Wayne Cryts, is appearing here today under unusual circumstances. He comes to us from a jail cell, and he will return to that cell Friday. Why? Because he did choose to stand up for the rights of hard-working farmers who were robbed of the fruits of their labors by inadequate bankruptcy laws. Some suggest that Mr. Cryts violated the letter of the law and rather than implicating many who helped him in what he feels is the pursuit of justice, he has chosen to remain in jail. We, in Congress, are given the responsibility to write the laws and change them when they prove inadequate or unjust. Wayne Cryts has made tremendous sacrifices to bring a grave injustice to our attention, and the Nation's farmers are waiting for us to respond with meaningful, legislative solutions.

Mr. Chairman, you and the subcommittee and, in fact, the full Senate have responded admirably. Unfortunately, I cannot say the same thing yet of the House of Representatives, but it is my sincere hope, as I know it is yours, that we can in this Congress finally correct the laws that so obviously demand change.

Again, I thank you and the subcommittee for the opportunity to testify, as well as for the tremendous leadership that you, Senator Dole, have shown in trying to correct the problem of grain elevator insolvency.

Now, Mr. Chairman and distinguished Members of the committee, it is with great pride that I present to you my constituent and my friend, Wayne Cryts, and his wife Sandy. Wayne has traveled a very long and difficult road to appear before you today, and I thank you most sincerely for giving him this opportunity to tell you his story. Thank you.

[The prepared statement of Representative Bill Emerson follows:]

PREPARED STATEMENT OF REPRESENTATIVE BILL EMERSON

MR. CHAIRMAN, I SINCERELY APPRECIATE THIS OPPORTUNITY TO APPEAR BEFORE THIS DISTINGUISHED SUBCOMMITTEE. I AM HERE TODAY ON BEHALF OF GRAIN PRODUCERS ALL ACROSS THE NATION WHO ARE FINDING THEMSELVES THE VICTIMS OF THE INCREASINGLY SERIOUS PROBLEM OF GRAIN ELEVATOR BANKRUPTCY AND THE PROLONGED LITIGATION THAT INVARIABLY RESULTS FROM SUCH INVOLVENCIES.

MORE SPECIFICALLY, I AM HERE TODAY TO APPEAR WITH MY CONSTITUENT, WAYNE CRYTS, WHO HAS, AT GREAT PERSONAL SACRIFICE, ATTEMPTED TO BRING THIS PROBLEM TO NATIONAL ATTENTION AND THUS, TO A LEGISLATIVE SOLUTION. IN THE COURSE OF THIS EFFORT, MR. CRYTS HAS VIOLATED THE LETTER OF THE LAW -- A DECISION THAT I CANNOT CONDONE, BUT ONE THAT I CANNOT CONDEMN IN THE LIGHT OF THE UNJUST CIRCUMSTANCES HE FACED. BEYOND THAT, MR. CHAIRMAN, I THINK IT IS SAFE TO SAY THAT, WITHOUT MR. CRYTS ACTIONS, THE PROBLEM OF GRAIN ELEVATOR BANKRUPTCY MIGHT NEVER HAVE BEEN PLACED AMONG THE PRIORITIES OF THIS CONGRESS.

WHILE THE PROBLEM OF GRAIN ELEVATOR BANKRUPTCY IS NOT A NEW ONE, IT IS A PROBLEM THAT HAS BEEN OCCURRING WITH FRIGHTENING REGULARITY IN RECENT YEARS, AND ONE THAT HAS BECOME A TREMENDOUS SOURCE OF FEAR AND INSECURITY AMONG OUR NATION'S FARM PRODUCERS. OF THE MORE THAN 140 SUCH INSOLVENCIES THAT HAVE OCCURRED NATIONWIDE SINCE 1974, WHAT IS UNDOUBTEDLY THE MOST CONTROVERSIAL AND HIGHLY PUBLICIZED INSTANCES TOOK PLACE IN NEW MADRID COUNTY, MISSOURI, IN AUGUST OF 1980. AS THE MEMBER OF CONGRESS WHO REPRESENTS THIS PART OF MISSOURI, I HAVE BEEN, AND CONTINUE TO BE, DEEPLY INVOLVED IN THIS PARTICULAR CASE.

TO BRING TO YOUR ATTENTION THE GRAVE INJUSTICE THAT PERVADES THIS SITUATION, A BRIEF HISTORY IS IN ORDER: ON AUGUST 11, 1980, THE OWNERS OF THE JAMES BROTHERS RISTINE WAREHOUSE IN NEW MADRID COUNTY FILED BANKRUPTCY PETITIONS IN

THE U.S. BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF ARKANSAS. (VENUE WAS PROPER SINCE THE JAMES BROTHERS ALSO OPERATED SEVERAL GRAIN WAREHOUSES IN THE STATE OF ARKANSAS, AND THOSE FACILITIES ARE ALSO INVOLVED IN THE BANKRUPTCY LITIGATION.) AT THE TIME OF THIS FILING, THE JAMES BROTHERS WERE HOLDING GRAIN VALUED IN EXCESS OF \$5,000,000 AND FOR WHICH THE WAREHOUSES HAD ISSUED VALID RECEIPTS TO THE FARMERS WHO HAD DEPOSITED THAT GRAIN.

ON AUGUST 15, 1980, THE BANKRUPTCY COURT APPOINTED AN ARKANSAS RESIDENT AS BANKRUPTCY TRUSTEE, AND AUTHORIZED HIM TO OPERATE THE RISTINE WAREHOUSE, AS WELL AS FOUR OTHER MISSOURI FACILITIES OWNED BY THE JAMES BROTHERS. ALMOST IMMEDIATELY AND WITH THE BLESSING OF THE BANKRUPTCY COURT, THE TRUSTEE REFUSED TO HONOR THE FARMERS' RECEIPTS FOR THE GRAIN STORED IN THOSE ELEVATORS. IN SHORT, THE OWNERS OF THAT GRAIN FOUND THEMSELVES UNABLE TO TAKE POSSESSION OF ASSETS THAT, IN SOME CASES, REPRESENTED VIRTUALLY THE ENTIRE PRODUCT OF A YEAR'S HARD WORK AND FINANCIAL INVESTMENT.

AS YOU CAN WELL IMAGINE, AS THE LITIGATION SURROUNDING THIS BANKRUPTCY DRAGGED ON, THE FARMERS WHOSE GRAIN WAS STORED IN THE RISTINE WAREHOUSE BECAME MORE AND MORE EXASPERATED. THEN, IN JANUARY OF 1981, WHEN RESOLUTION OF THE SITUATION WAS STILL NOT IN SIGHT, ONE OF THESE FRUSTRATED FARMERS, WAYNE CRYTS, ANNOUNCED THAT, IF THERE HAD BEEN NO LEGAL DETERMINATION OF OWNERSHIP OF THE GRAIN BY FEBRUARY 16, HE WOULD GO TO THE RISTINE WAREHOUSE AND RETRIEVE HIS GRAIN.

DESPITE SERIOUS EFFORTS BY MISSOURI STATE OFFICIALS, SEVERAL NATIONAL FARM ORGANIZATIONS, AND MYSELF, TO ARRANGE A COMPROMISE BEFORE FEBRUARY 16, NO RESOLUTION TO THE PROBLEM WAS FOUND. THUS, ON THAT DAY WAYNE CRYTS AND SEVERAL HUNDRED SUPPORTERS FROM ACROSS THE NATION TRAVELED TO THE RISTINE WAREHOUSE TO RETRIEVE HIS GRAIN. UPON ARRIVAL AT THE WAREHOUSE, CRYTS AND HIS SUPPORTERS WERE MET BY SEVERAL FEDERAL MARSHALS AND FBI

AGENTS. AFTER INFORMING THE FARMERS OF THE LAWS THEY WOULD BE VIOLATING, THESE AGENTS STEPPED ASIDE, AND THE GROUP REMOVED CRYTS'S 31,000 BUSHEL OF SOYBEANS AND MOVED THEM TO A WAREHOUSE IN A NEIGHBORING COMMUNITY.

MR. CHAIRMAN, WAYNE CRYTS MOVED HIS SOYBEANS ON FEBRUARY 16, 1982 -- WELL OVER ONE YEAR AGO. DURING THAT TIME, ENDLESS LITIGATION HAS RESULTED IN NO RESOLUTION OF THE REAL PROBLEM. WAYNE CRYTS AND THE OTHER FARMERS WHOSE GRAIN WAS STORED IN GOOD FAITH ALMOST TWO YEARS AGO STILL HAVE NOTHING TO SHOW FOR THEIR HARD WORK OR THEIR FINANCIAL RISK. IN THE MEANTIME, TRUSTEE'S FEES AND LEGAL COSTS MAY HAVE VIRTUALLY CONSUMED THE ASSETS OF THE FARMERS WHO OWNED THE GRAIN INVOLVED IN THIS DISPUTE. IN SHORT, THE DAMAGE HAS BEEN DONE, AND THE ONLY REAL VICTIMS OF THAT DAMAGE ARE THE FARMERS OF THIS NATION WHO DEPEND ON A RELIABLE SYSTEM OF GRAIN STORAGE.

IN RECOGNITION OF THIS PROBLEM, THE UNITED STATES DEPARTMENT OF AGRICULTURE NOT ONLY EXPRESSED ITS SUPPORT FOR A LEGISLATIVE SOLUTION, BUT HAS CONDUCTED A SPECIAL TASK FORCE REVIEW OF GRAIN ELEVATOR BANKRUPTCIES AND RECOMMENDED SEVERAL ADMINISTRATIVE CHANGES TO ALLEVIATE THE THREAT POSED BY THE UNIQUE NATURE OF SUCH INSOLVENCIES. IN SHORT, THERE IS NO DOUBT THAT THE LAWS WHICH ALLOW TRAGIC SITUATIONS SUCH AS THE ONE IN MY DISTRICT NEED TO BE CHANGED.

MR. CHAIRMAN, YOU HAVE MARKED-UP, REPORTED OUT, AND PASSED S.1365, A LEGISLATIVE SOLUTION TO THE GROSS INJUSTICE REPRESENTED BY THE RISTINE EPISODE. IN FACT, THE SENATE HAS, ON THREE SEPARATE OCCASIONS, VOTED IN FAVOR^{OF} YOUR AMENDMENTS TO THE FEDERAL BANKRUPTCY CODE. UNFORTUNATELY, MY COMPANION MEASURE, H.R. 3984, HAS NOT RECEIVED THE SAME KIND OF QUICK AND FAVORABLE CONSIDERATION AS HAS YOUR BILL.

WAYNE CRYTS SITS BESIDE ME NOW. BUT TOMORROW HE MUST

RETURN TO HIS JAIL CELL, NOT BECAUSE HE REMOVED HIS AGRICULTURAL PRODUCT FROM THE DEFUNCT ELEVATOR, BUT BECAUSE A LONE BANKRUPTCY JUDGE HAS FOUND HIM IN CONTEMPT OF COURT. AS WE ALL KNOW, MR. CRYTS WAS OFFERED IMMUNITY FROM PROSECUTION IF HE WOULD NAME THOSE FARMERS WHO ASSISTED HIM IN REMOVING HIS ASSETS FROM THE RISTINE ELEVATOR. HE REFUSED, AND WAS ORDERED TO APPEAR ONCE AGAIN BEFORE THE BANKRUPTCY COURT ON APRIL 28, WHICH HE DID. AGAIN, HE WAS ASKED TO NAME HIS SUPPORTERS -- THIS TIME UPON THE THREAT OF INCARCERATION IF HE DID NOT OBEY. NOT UNEXPECTEDLY HE CHOSE TO GO TO JAIL RATHER THAN PLACE HIS FRIENDS IN JEOPARDY.

MR. CRYTS IS A PRISONER NOT ONLY OF THE COURTS, BUT OF HIS OWN COMMITMENT TO REAL JUSTICE. THAT HE VIOLATED THE LETTER OF THE LAW IS NOT QUESTIONED; HOWEVER, IF THE INTENT OF THE LAW IS FAIRNESS AND PROTECTION OF THE INNOCENT, THE INTENT OF THE LAW AS WELL AS THE LETTER NEEDS CHANGING.

MR. CHAIRMAN, IT IS MY VIEW THAT WAYNE CRYTS SHOULD BE RETURNED TO HIS FAMILY, HIS FRIENDS, AND HIS HOME. OUR FARMERS EXPECT US TO ENACT LAWS THAT WILL PROTECT THEM FROM THE SAD EVENTS I HAVE JUST RELATED. MR. CHAIRMAN, YOU HAVE RECOGNIZED THE PROBLEM AND NOW I HOPE THE HOUSE WILL FOLLOW SUIT.

Senator DOLE. Anybody else who wants to introduce himself can do that before we proceed.

Mr. CRYTS. Only my wife, and she has already been introduced.

Mr. Chairman, and members of the committee, and others, I appreciate the opportunity to be here to speak. I am not a professional speaker. I am a farmer from Puxico, Mo., but I hope the remarks I would make here today would be clear, and I hope it would inspire the House to pass legislation to be sure that this situation is not continued.

Since my ordeal started, I have talked to hundreds of farmers across the Nation who have been involved in the same situation that I am in, and if there is one common denominator, it is that the farmer loses, and he loses heavily. One of the farmers I talked to, I guess, who has been a guiding light to me in my decisions, is a farmer in Colorado. He told me of his experiences of being involved in an elevator bankruptcy, and he said, "Wayne, I lost everything I had." He said, "In the decision you make in the days to come, I would like you to remember one thing. You don't have anything to lose. You have already lost it. All you are trying to do is to get it back."

Mr. Chairman, the crop that I had stored was my 1979 crop, and I stored it in the elevator. I held it longer than I usually do whenever I store in this elevator, but if you will remember, in 1980 we had a widespread drought across our Nation, and the crop that I had in the field was burning up, and I felt that I had a better chance of surviving with the 1979 crop that I had stored, hoping that the price would go up, and that would enable us to stay in business. And it did. The drought continued and the price went up. Soybeans went up to over \$9 a bushel. But during that time, my soybeans were tied up in a litigation.

That equity in those beans represented 2 years' labor and the chance that my farming operation had for survival.

Whenever the elevator went bankrupt, it was licensed under the State of Missouri's bankruptcy laws, and when it went bankrupt, I called the Department of Agriculture and talked to Mr. Tom Hopkins. He said, "Mr. Cryts, don't become overly concerned. We have been monitoring that elevator for some time, and when it became evident that they might try to move grain out of the elevator, we padlocked it." He said, "It will take a period of a couple or 3 weeks, and the farmers will then be able to get in and get the grain."

Then a Federal bankruptcy judge came in and from the very start he contended that the grain was in the elevator, that it was assets of the property of the James Brothers elevator—and he would sell the grain to pay off the debts of that elevator.

I talked to everybody I could get to listen. I made a trip to Washington and talked to Commodity Credit. They said they considered the farmers to be adversaries, and the only thing they were interested in was their loan.

Back home, our family met and discussed it, and the decisions to be made. We agonized for days over what to do, and we finally decided if our operation was going to survive, we had to get our grain out of that elevator. We made it, the decision, basically on three things. We realized that the penalties for what we were doing, the fines and everything, that we might lose the equity that we had

left in our operation. We also realized that we might have to go to jail, and we also realized that when you take an action like this that it is very rare that you receive public support, and we accepted all that. We felt, to continue this battle, that we would have to be ready to accept the very worst that could happen to us, because if we didn't, somewhere during the battle they would assess a penalty we couldn't accept and we would quit and give up.

We believe that there is more justice in this country than there is anywhere in the world. But you know, justice is not always brought and set in your lap. Sometimes you have to stand up, and sometimes you have to reach for it. And for every person that is treated unjustly who does not stand up, then the next person who does has to stand a little taller and he has to reach a little higher. And if enough people treated unjustly do not stand up, then justice may get out of the reach of us all.

We had seen what happens when elevators go bankrupt. They take the grain and sell it and put it up into an account, and then the farmers have to hire attorneys out of their own pockets. They are then fighting their own money, trying to get it back. This goes on and on and on, and the problem that we have, even though we do have justice in this country, for some of the complex laws that we have, the average individual can no longer afford justice, because he does not have the financial resources to fight an extended legal battle through our court system. So we felt, for this and other reasons that, if we were going to survive, if we were going to change this law that was so unjust it was hurting private people who had worked and produced and put their commodity in an elevator, then somewhere someone was going to have to make a statement saying this was not right.

When the elevator, whenever we decided to go to the elevator—it would take hours to tell what happened there, but I would like to say just one comment about it. When we left the elevator, I left a cleanup crew there that put the elevator back in shape and sealed it down. They mopped the floor in the office, and graded the roads. The FBI reported the elevator was in better condition when the farmers left than when we got there.

During this whole thing, there was not a bit of violence, there was not one word said in outrage. It almost had a festive atmosphere about it.

The FBI and the Federal marshals that were there, in no way conspired to help us, but I think they were in sympathy with us and felt that what was being done to us was unjust. Before I went to the elevator to reclaim my grain, I went to the ASCS office and tried to pay off my warehouse receipts with a check, and they would not accept it.

I have written thousands of checks in my lifetime and I have never written a check that was not covered. When I removed the grain from Ristine and took it to Bernie, I deposited it, the grain, in the elevator. I did not receive payment for it. I was hoping to draw enough attention to this problem that somebody in authority would step in and say, you know, "This is not right, you cannot sell a person's private property to pay off the debt of others."

What I wanted to do at that time was transfer my title from the Ristine elevator to the other elevator and continue the battle from

that point. I called the ASCS office and told him we were going to come over and pay off our warehouse receipts in cash. He told me at that time that he had an order from the D. of C. that I could not pay off my receipts in cash or by check. When I hung up the phone, I told the Federal marshal and the FBI, but they didn't understand.

I talked to the man from the local radio station. He said, "Wayne, you, misunderstood." In another office, there were three telephones, and when I got the director on, I said, "Leonard, did I misunderstand you, that you said I could not pay off my receipts in cash or check?" He said, "Wayne, I don't understand it, but that is what the order said. I would help you, but there is nothing I can do."

In one of the hearings, the director of the ASCS office was on the stand. He said that we had come to the ASCS office, trying to pay with a check, and they wouldn't accept it. Bill Bryan and Diane Anderson testified that I had tried to pay off in cash, because they were on the phone whenever I was told that I could not pay off in cash, and the judge had their evidence stricken from the record, because he said it was hearsay because they were on extension phones.

I never intended to go back to Bernie to reclaim my grain. The judge ordered my grain sold free and clear of all debts. Then I got a letter from Commodity Credit, saying if I did not pay off my loan, I forfeited my grain. It infuriated me, the judge sold my grain free and clear of all debts, and now they tell me if I didn't pay off the loan, I would forfeit the grain. That is when I made the decision I made, to go back to Bernie and take the grain up to the ASCS office and pay off the warehouse receipts. I told them, "I understand you will not accept cash or a check, so I have brought my grain, and I will pay off my loan with what is necessary and take the rest home and sell it and pay off the bills accumulating against me. They said they wouldn't accept my grain. I took it on, and since that time, I sold it and I have started paying off my bills.

When I removed the grain out of Ristine, I was charged with conspiracy and I went before a Federal grand jury in St. Louis and they refused to bring back an indictment for removing the grain.

The judge charged me with civil contempt. I have never been charged with breaking a law. I have never had an opportunity to go before a jury of my peers. If they believe that I broke a law, why don't they charge me with it?

Some of the things that have happened I can't understand. The attorneys that I retained, the judge wouldn't recognize them, and said if they showed up in court that they could not represent me.

We got an associate lawyer from Little Rock, a lady attorney who I never met or talked to and she lasted a week and a half, and she quit. During the State of Missouri's fight for jurisdiction, the judge found the Missouri Governor and the Director of Agriculture in contempt of court and threatened to jail them.

The lawyer representing the State of Missouri was called at home personally by the judge and threatened with contempt of court just for appealing his decision.

There have been many things happen, and however I am judged, whatever the final outcome of this is, it does not deviate from the

fact that the bankruptcy laws, as they are now, are unjust, and surely the House will see fit to pass the legislation on through so that this injustice does not continue.

Again, Mr. Chairman, I appreciate the opportunity to be here and to speak, and I hope my comments will help in moving this along; and if I could, I would like to make one statement. I have talked to Congressman Emerson at great length on the bill that the Senate passed, and I truly believe that if this bill would have been implemented at the time that the elevator bankruptcy that I am involved in happened that I would not be in the situation that I am now.

I like several aspects of it: No. 1, it is the time limit that is on there, the short period of time. You know, if you are tied up in these bankruptcies and they drag on for 3 or 4 years, if they give all of your grain back to you at the end of that time, we are paying 18.5 interest out there on our loan. Our crop that we have stored, we have all our production costs in it with the rate of inflation. If they give it all back to you in 3 or 4 years, you already have had a total loss. I like the idea that it is the farmer's priority, and why shouldn't it be? It is his grain to start with. It is not the asset of the elevator, and I want to commend the Senate on the good job they have done, and I hope and pray the House will get off dead center and get this legislation passed. Regardless of why an elevator goes bankrupt, the times we are in now, it is hard for a lot of industries, and just because an elevator goes bankrupt doesn't mean that the manager or owner was a crook, but that does not take from the fact that the private property in there, for whatever reason they go bankrupt, there is no reason that it shouldn't be returned to the owners, and in a short period of time. I appreciate the efforts of everyone who has been involved, and I hope that we can change this injustice.

Thank you very much for the opportunity to be here today.

Senator DOLE. Thank you, Mr. Cryts.

Mrs. Cryts, do you have anything to add?

Mrs. CRYTS. No; I would like to say that all we asked from the very start was the determination of ownership of our grain, and it has never been done to this day.

Senator DOLE. Do you have a family; do you have children?

Mr. CRYTS. Yes; my wife Sandy and I have a son, Terry, who is 15, and if I could, I would like to brag. He is 6 foot 3 and weighs 225 pounds.

I have come to the point where I quit telling him what to do and started asking him what to do, and we have a daughter, Paula, who is 14, and they are wonderful kids.

Senator DOLE. Now, as I understand, when you go back home, you are leaving today?

Mr. CRYTS. I have got to be back in jail in Russellville by 12 noon tomorrow.

Senator DOLE. Is there some termination date on the incarceration?

Mr. CRYTS. Senator, this is one of the aspects. It is just another one of the things I can't understand. The order that I was served with to come to Little Rock, it stated that, if I did not testify, then I was to show just cause why I shouldn't be incarcerated. When I

went to Little Rock and was put on the stand, when I refused to testify, the judge immediately had the Federal marshals take me into custody, and he, the judge, never gave me the opportunity to show just cause. He told him, the Federal marshal, to take me in custody and hold me until I testified.

When my lawyers tried to object, he would overrule them before they even had a chance to get out of the chair.

Later on that afternoon, he brought my wife and dad and two other farmers on the stand, and my lawyers finally got his attention and said that I had not been allowed to show just cause under the section he charged me with; and he said, "Well, I am no longer using that section." He said, "I am using the common law now."

It has been an extremely difficult case to fight, because whenever I would get the papers to come down there on one thing, we would prepare a defense for that, and then he would simply change it to something else, and I say again, if they feel that I have broken a law, then I feel that they should charge me for breaking that law, where I could go before a fair and impartial jury, where we could submit our evidence on both sides and let them make the decision. I am not saying turn me loose scot-free. I accept that decision as having due process of law, what I have been guaranteed under the Constitution.

Senator DOLE. I appreciate your testimony. As I indicated earlier through the staff, we probably can't try anything that may be pending now, but I think it is so important, as you pointed out, and the bill that has passed the Senate three times and has been cosponsored by all 4 of us who are here this morning, I would like to include in the record at this point the principal provisions of that measure, along with the principal provisions of the House measure, and I would summarize just quickly for the record that the bill passed by the Senate three times requires a mandatory distribution of proceeds of grain in the elevators within 4 months of the filing of bankruptcy. The distribution system would allow the contract-storage owners of grain to recover their grain off the top. Farmers who have kept title to the grain, also, and have not sold to the elevator.

The second part of our bill brings the State regulatory agencies into the distribution process. These agencies' expertise will help assure smooth distribution in complex cases.

Third, it grants farmers who have sold grain to the elevators but have not received payment before the bankruptcy status as secured creditors. This allows farmers time to obtain third-party guarantees of their contracts and protect them if there is a bankruptcy before they obtain such guarantees. If there is a bankruptcy, sale-contract farmers who have not received payment can claim a portion of the grain assets under the bill. Under the present law, they are general, unsecured creditors.

The fourth provision is that trustees' expenses will be paid out of proceeds-of-grain assets to those charges related to the handling of the grain. The trustees' fees are limited to no more than 1 percent of gross proceeds in most cases.

Finally, it would require the bankruptcy court to accept the elevator receipts as total ownership of the grain. We have talked about sale tickets and warehouse receipts.

Those are the essential provisions in the Senate bill, and I must say that it was criticized by some farm organizations as not being strong enough, but these are the provisions that we believe are reasonable and should be passed.

But the House bill does not contain any mandatory timetable for distribution of grain assets. It only instructs the court to expedite "as much as possible" the distribution. So, it requires the court to set a timetable, but there is no statutory timetable. It does not provide the protection to farmers who have sold grain to the elevator but have not received payment. There is no secured creditor status for these farmers. They refer only after all secured creditors have been paid.

Again, I know the House must work its will, and we believe that your appearance this morning and your indication, and I know that you speak for hundreds of farmers when you appear this morning. We are told that there are problems, or could be problems in many elevators throughout the Midwest and other parts of the country and that there is a need for us to move quickly on this legislation.

I would like to ask just a couple of questions and then yield to my colleagues.

You have already indicated that, had we had this legislation, it probably would have spared you from the experience you had. Is that correct?

Mr. CRYTS. It is. The 4 months' total time period is very important. I didn't go into the elevator until almost 8 months after the bankruptcy was filed. The timetable was very important. Mr. Chairman, I am not trying to be cynical, but the problems I have seen and in talking to others, it seems that it may be—perhaps in the best interests of the people litigating the issues, the longer that it drags on, because they are getting their fees and salaries and expenses, the longer that it drags on, and the farmer is sitting out there, and it is eating him up alive. This is why I think it is very important for these timetables to be in there, and I hope we can bring attention to that. I understand it is tied up in the Judiciary Committee on the House side. I hope we can impress on them the disastrous situation facing us out there. There were two more grain elevator bankruptcies in Kansas, and five in Louisiana. I think it is urgent that we get this legislation through and signed into law as quickly as possible.

Senator DOLE. I have read some news accounts that indicate that there are certainly a number of other farmers in your neighborhood and in your area who have had losses, some greater than yours. How many farmers have been affected by the James Brothers bankruptcy?

Mr. CRYTS. In this particular instance, there were in excess, I believe, of 250 in this, and it is devastating to the whole community. It involves more than just the particular farmer, because, like I say, he has got all his input costs into that grain, the fertilizer dealers, the chemical dealers, the gas station, the whole works. If the farmer cannot get payment out of that grain, he cannot pay his bills, and it has a ripple effect all across the community, and it is just devastating.

I would like to say, too, that it is very important that we get this legislation passed on another account, and that is due to the fact that a lot of our smaller independent elevators, they depend on the storage of this grain for a lot of the income that they get through the year, and if the farmers become concerned that there is too great a risk, they will not use the smaller elevators, and there is very little competition in the market now, and we do need those independent elevators. It is urgent to get these laws passed so we feel confident to store that grain in there, and if something happens, we get the grain back. It would take hours and hours to go into all the ramifications of, if it is not changed, what can happen, and I don't want this to be the proper time—I have a written statement that I would like to submit, if I could, that covers a lot of these points.

Senator DOLE. The statement has been made part of the record, and if any other persons who may be present this morning would like to have a statement for the record, we want to make a record in this case which we hope will properly encourage the House to move quickly.

[The prepared statement of Mr. Cryts follows:]

PREPARED STATEMENT OF WAYNE CRYTS

MR. CHAIRMAN AND DISTINGUISHED MEMBERS OF THE SUBCOMMITTEE:

MY NAME IS WAYNE CRYTS, AND I'M FROM PUXICO, MISSOURI. FOR THE PAST EIGHTEEN DAYS I HAVE BEEN HELD IN THE POPE COUNTY DETENTION CENTER IN RUSSELLVILLE, ARKANSAS, WITHOUT THE BENEFIT OF BAIL, BOND, OR A TRIAL BY JURY. AS A RESULT OF YOUR INTEREST AND INFLUENCE, MR. CHAIRMAN, AND DISTINGUISHED MEMBERS, I HAVE BEEN RELEASED FOR 70 AND A HALF HOURS TO APPEAR BEFORE YOU. I APPRECIATE THIS OPPORTUNITY TO TALK WITH YOU ABOUT RECENT EVENTS IN MY LIFE THAT CENTER AROUND QUESTIONS OF PRIVATE OWNERSHIP AND BANKRUPTCY LAWS.

I WANT TO EXPRESS MY THANKS, TO SENATOR DOLE AND CONGRESSMAN EMERSON FOR THEIR PROPOSED BANKRUPTCY LAW CHANGES. IT'S NOT PERFECT; NO LAW IS, BUT WE CONSIDER IT A MAJOR STEP FORWARD.

I AM A FARMER. MY FAMILY OPERATES CRYTS FARMS IN THE BOOTHEEL OF MISSOURI. WE GROW MAINLY WHEAT, MILO, AND SOYBEANS ON ONE THOUSAND LEASED ACRES AND ABOUT ELEVEN HUNDRED OWNED ACRES SPREAD OVER APPROXIMATELY 70 MILES.

MY FATHER, WILLIAM CRYTS, HAS ALWAYS BEEN A FARMER, EXCEPT FOR A PERIOD OF TIME DURING WORLD WAR II WHEN HE WAS A TORPEDO FACTORY PRODUCTION SUPERVISOR. FOLLOWING IN HIS FOOTSTEPS, I STAYED ON THE FARM WHEN I GRADUATED FROM HIGH SCHOOL. SO DID MY BROTHER, BILL CRYTS. MY BROTHER-IN-LAW, RICK KELLEY, HUSBAND OF MY SISTER, LEANN, LATER JOINED US IN THE FAMILY OPERATION, AND WE CONTINUE TO CULTIVATE THE LAND, SOME OF WHICH HAS BEEN IN THE FAMILY SINCE THE CIVIL WAR.

MY WIFE, SANDY, AND I HAVE TWO CHILDREN; BILL AND HIS WIFE, SANDRA, HAVE THREE; SO DO DICK AND LEANN. WE HAVE ALWAYS ASSUMED THAT OUR LAND WOULD BE HANDED DOWN TO OUR CHILDREN. WE NO LONGER ASSUME, WE PRAY. FOR I HAVE TAKEN A STAND THAT GOES

BEYOND LAND BOUNDARIES AND BORDERS ON PRESERVATION OF HUMAN DIGNITY.

TO MY GREAT ASTONISHMENT AND EMBARRASSMENT, I'VE BEEN ASKED A NUMBER OF TIMES THE PAST FEW WEEKS IF I CONSIDERED MYSELF A HERO BECAUSE OF THIS STAND. MY ANSWER IS, "NO, I DO NOT." I DO, HOWEVER, BELIEVE STRONGLY IN THE POSTURE I HAVE TAKEN WITH THE ADVICE AND SUPPORT OF MY FAMILY AND THOUSANDS OF OTHER AMERICANS WHO HAVE COME IN PERSON, OR WRITTEN, OR CALLED TO GIVE ME ENCOURAGEMENT.

I HOLD THIS PHRASE CLOSE: "THERE'S A WORLD OF DIFFERENCE BETWEEN LAW AND JUSTICE." I ALSO STRONGLY BELIEVE THAT IF A PERSON PASSIVELY WATCHES A CONTINUING INJUSTICE, THAT PERSON BECOMES JUST AS GUILTY AS THE CREATOR OF THAT INJUSTICE.

UNTIL A FEW YEARS AGO, I HAD NEVER RECEIVED SO MUCH AS A TRAFFIC TICKET. I FARMED MY CROPS, LOVED MY WIFE AND KIDS, HONORED MY PARENTS, WORSHIPPED GOD, PAYED MY TAXES, AND VOTED FOR PEOPLE TO REPRESENT ME IN THE COURT HOUSE, THE STATE HOUSE, THE WHITE HOUSE, AND CONGRESS. I THOUGHT THAT BEING CORRECT WOULD ASSURE ME OF RIGHT BEING ON MY SIDE. IN 1974 WHEN I REALIZED CRYTS FARMS HAD SUBSTITUTED CREDIT FOR PROFIT, I DETERMINED WE WERE IN DESPERATE TIMES WHICH SOMETIMES CALL FOR DESPERATE ACTS BORN OF FRUSTRATION. THAT IS THE REASON I AM HERE, AND THIS IS MY STORY:

THE ELEVATOR IN RISTINE, MISSOURI, WHERE I HAD MY GRAIN STORED, WENT BANKRUPT. WE'D DONE BUSINESS WITH THAT ELEVATOR SINCE BACK IN THE 1950s. WHEN I HAULED IN MY GRAIN IN 1979, THEY GAVE US SCALE TICKETS THAT WERE MARKED "STORED." THEY'D NEVER BEEN PRICED OR PRE-PRICED TO THE ELEVATOR. WE TOOK OUR WAREHOUSE RECEIPTS, AND TOOK OUT A COMMODITY CREDIT LOAN ON THEM. I HAD A STORAGE CONTRACT THAT SAID FOR 16¢ A BUSHEL I COULD MOVE MY GRAIN FROM THAT ELEVATOR AND SELL IT AT ANY OTHER MARKET. I ALSO PAID MY STORAGE UP 7 MONTHS IN ADVANCE.

I GOT WORD THAT THE ELEVATOR HAD GONE BANKRUPT AUGUST 8, 1980. THE ELEVATOR WAS LICENSED AND BONDED UNDER THE STATE OF MISSOURI WAREHOUSE LAWS. I CALLED THE MISSOURI DEPARTMENT OF AGRICULTURE AND TALKED TO MR. TOM HOPKINS, HEAD OF WAREHOUSING, AND HE SAID, "MR. CRYTS, DON'T BECOME OVERLY CONCERNED." HE SAID, "WE'VE BEEN MONITORING THAT ELEVATOR FOR QUITE SOME TIME, AND WHEN IT BECAME APPARENT THEY MIGHT TRY TO MOVE SOME OF THAT GRAIN OUT OF THERE WITHOUT ENTERING IT UPON THE RECORD, WE PAD-LOCKED THE ELEVATOR. THE GRAIN IS ALL THERE. IT'S GOING TO TAKE A PERIOD OF TWO OR THREE WEEKS TO GET THE RED TAPE ALL OUT OF THE WAY, AND THEN THE FARMERS WILL BE ABLE TO COME IN AND GET THEIR GRAIN."

DURING THAT PERIOD OF TIME, THEY HAD MEETINGS IN THE BOOTHEEL FOR EVERYBODY WHO HAD TITLE TO THE GRAIN TO COME IN AND CHECK IT AGAINST THEIR RECORDS AND THE ELEVATOR RECORDS TO SEE THAT EVERYTHING WAS THERE. IT WAS.

THEN THE BANKRUPTCY JUDGE, CHARLES BAKER, CAME IN UNDER THE BANKRUPTCY LAWS, AND HIS CONTENTION FROM THE START WAS THAT THEY WERE GOING TO SELL ALL THE GRAIN IN THE ELEVATOR, FREE AND CLEAR OF ALL LIENS TO PAY OFF THE DEBTS OF THE ELEVATOR. FARMERS KEPT SAYING, "THIS IS NOT RIGHT. THIS IS OUR GRAIN, IT'S NOT PART OF THE ASSETS OF THE ELEVATOR, AND THEY CAN'T TAKE OUR GRAIN AND SELL IT AND PAY OFF THE DEBTS OF SOMEONE ELSE."

I MADE TWO TRIPS TO WASHINGTON, D.C. I TALKED TO PRACTICALLY ANYONE I COULD. I TALKED TO MY THEN-CONGRESSMAN BILL BURLISON, AND HE WENT WITH ME TO THE CCC OFFICE OF USDA. WE WANTED THEM TO DO AS THEY HAD DONE IN ANOTHER SUCH CASE -- BUY OUT THE FARMERS EQUITY AND THEN IT WOULD BE BETWEEN THE TRUSTEES AND THE CCC. WE WERE FAVORABLY RECEIVED AT FIRST. ALL OF THEM TOLD ME THEY DIDN'T THINK IT WAS RIGHT -- THAT THE GRAIN BELONGED TO THE FARMERS -- BUT THERE WAS REALLY NOTHING ANYONE COULD DO ABOUT IT.

I HAD STORED THE GRAIN LONGER THAN I USUALLY DO WHEN I STORE GRAIN AT THE ELEVATOR, BUT THIS WAS MY '79 CROP. IN 1980, WE HAD A WIDESPREAD DROUGHT AND I WAS IN CONTACT WITH FARMERS AROUND THE COUNTRY. THEY REPORTED THE DROUGHT WAS IN THEIR AREA AND THE CROP THAT I HAD GROWING OUT IN THE FIELD AT THE TIME WAS NEARLY BURNED UP. I DECIDED I HAD A BETTER CHANCE OF SURVIVING WITH THE GRAIN I HAD STORED THAN THE GRAIN THAT WAS GROWING OUT IN THE FIELD AND BURNING UP. THAT STORED GRAIN WAS THEN REPRESENTING THE LABORS OF TWO YEARS FOR ME AND MY FAMILY, AND THE GROWING CROP WAS APT TO BURN UP. SUBSEQUENTLY, THAT DID HAPPEN, AND BEANS WENT TO OVER \$9 A BUSHEL. BUT DURING THAT TIME OUR BEANS WERE TIED UP IN THAT ELEVATOR AND I COULDN'T SELL THEM.

I KNEW WITH THE ECONOMIC CONDITIONS AND THE CROP THAT WAS BURNING UP IN THE FIELD, IF I LOST THIS GRAIN IT COULD VERY WELL PUT OUR FAMILY OPERATION UNDER. I'M A SIXTH GENERATION FARMER AND THE LAND HAS BEEN IN OUR FAMILY FOR THAT MANY GENERATIONS.

WE TRIED TO DECIDE, "WHAT CAN WE DO?", AND "HOW CAN WE SURVIVE THIS THING?" WE FINALLY CAME TO THE CONCLUSION THAT IF WE WERE GOING TO SURVIVE SOME WAY OR OTHER WE WERE GOING TO HAVE TO GET ACCESS TO THAT GRAIN AND GET IT SOLD, BECAUSE WE HAD BILLS AND INTEREST MOUNTING UP.

WE DIDN'T MAKE THE DECISION IN RASH ANGER. WE AGONIZED FOR DAYS AND DAYS ON WHAT TO DO. WE FINALLY DECIDED THAT THE ONLY WAY WE COULD SURVIVE WAS FOR US TO GET THE GRAIN OUT AND GET IT SOLD. WE MADE THAT DECISION BASED ON THREE THINGS:

THERE WAS THE FACT THAT WE DO HAVE EQUITY LEFT IN OUR OPERATION AND WE KNEW THERE WAS A CHANCE THAT THROUGH PENALTIES AND FINES WE COULD LOSE ALL OF THAT. WE ALSO REALIZED THAT THERE WAS A CHANCE THAT WE MIGHT GO TO JAIL, AND WE ALSO

REALIZED THAT, IN A SITUATION LIKE THIS, YOU MAY NOT HAVE ANY PUBLIC SUPPORT. AND IF WE DIDN'T, THEN WE'D HAVE TO GO TO THE ELEVATOR BY OURSELVES. WE ACCEPTED ALL OF THAT.

WE DECIDED TO FIGHT THIS BATTLE, THAT WE WERE BEING UNJUSTLY TREATED, THAT WE WERE BEING DENIED DUE PROCESS OF LAW. AND IN FACE OF THAT, WE DECIDED TO ACCEPT THE VERY WORST THAT COULD HAPPEN TO US, AND TO STAND UP AND FIGHT FOR WHAT WE THOUGHT WAS RIGHT.

WE TALKED TO FARMERS FROM ALL OVER THE COUNTRY INVOLVED IN ELEVATOR BANKRUPTCIES. AND IF THERE WAS ONE COMMON DENOMINATOR IT WAS THAT THE FARMER ALWAYS LOST AND HE LOST HEAVILY.

WHAT THEY DO IS, THEY TAKE YOUR GRAIN AND THEY SELL IT FREE AND CLEAR OF ALL LIENS AND THEY PUT THE MONEY UP INTO A POOL.

ONE OF THE BASIC PROBLEMS IN ELEVATOR BANKRUPTCIES IS THIS: A FARMER'S GRAIN IS IN AN ELEVATOR THAT GOES BANKRUPT, AND HE GOES TO THAT ELEVATOR AND SAYS, "HERE ARE MY RECEIPTS FOR THAT GRAIN, I LIVE IN THE AREA AND THAT'S MY GRAIN." BUT HE CAN'T GET HIS GRAIN BECAUSE THE JUDGE WANTS TO SELL IT AND TURN IT INTO MONEY THAT'S TIED UP IN A POOL. WHEN THAT HAPPENS, FROM THAT POINT ON, THE FARMER IS AT A SEVERE DISADVANTAGE, BECAUSE YOU'RE NO LONGER TALKING ABOUT GRAIN, YOU'RE TALKING ABOUT MONEY.

NOW THE ELEVATOR OPERATOR-MANAGER THAT WORKED FOR THE JAMES BROTHERS TESTIFIED IN COURT THAT THE GRAIN IN THAT BANKRUPT ELEVATOR AT RISTINE BELONGED TO US FARMERS IN THE AREA, THAT IT HADN'T BEEN BROUGHT IN FROM ANYWHERE ELSE, IT WAS OUR GRAIN.

WHEN THE GRAIN IS CONVERTED INTO POOLED MONEY, THINGS DRAG ON. THE FARMERS, THEY'VE HIRED LAWYERS AND THEY'RE SPENDING MONEY OUT OF THEIR POCKETS, FIGHTING THEIR OWN MONEY. THEY GO TO THESE HEARINGS AND THEY'RE CONTINUED AND ALL OF THIS, AND THEY'RE PAYING MORE AND MORE MONEY. FINALLY THEY GET SO DISGUSTED AND THEY'RE SPENDING SO MUCH MONEY THEY JUST SAY, "THE HECK WITH IT." THIS ELEVATOR CASE, THEY WOULD CHANGE IT TO CHAPTER 7 AND THEN

THEY'D CHANGE IT BACK TO CHAPTER 11, AND IF YOU WEREN'T THERE AT THE RIGHT TIME, IF YOU MISSED ANY ONE OF THESE HEARINGS, THEN THEY'D THROW YOUR CLAIM OUT AND YOU'D LOSE FROM THAT POINT ON.

SO THE FARMERS HAVE TO HIRE LAWYERS OUT OF THEIR OWN POCKETS, AND THEY ARE ACTUALLY FIGHTING THEIR OWN MONEY TRYING TO GET IT BACK. IT JUST DRAGS ON AND ON AND ON.

I WOULD GET A NOTICE OF A HEARING IN LITTLE ROCK, WHICH IS ABOUT 250 MILES AWAY FROM WHERE I LIVE, AND OF COURSE I WOULD GET MY ATTORNEYS AND WE WOULD DRIVE DOWN THE DAY BEFORE. THE NEXT MORNING WE WOULD BE THERE IN COURT AND THEY WOULD POSTPONE THE HEARING. AND WE WERE OUT ALL THE EXPENSE OF THE TRIP DOWN THERE, AND THE LAWYERS' FEES. AND WE'D GET BACK HOME AND IT WOULDN'T BE A WEEK UNTIL WE'D GET ANOTHER NOTICE.

I WOULD CALL THEM BEFORE I LEFT HOME AND SAY, "IS THE HEARING STILL ON?" AND THEY'D SAY "YES," AND WE'D GO DOWN THERE AND GO THROUGH THE SAME THING AGAIN; THEY'D POSTPONE IT. IT JUST GETS FRUSTRATING. SO WHENEVER I FINALLY MADE UP MY MIND THAT THE ONLY CHANCE WE HAD WAS TO GET THAT GRAIN OUT OF THE ELEVATOR, I HAD A PRESS CONFERENCE AT SIKESTON, MO, ON JANUARY 15, 1981, AND I MADE A STATEMENT THAT IF IT HADN'T BEEN DETERMINED BY THE COURTS THAT MY GRAIN WAS NOT MINE BY FEBRUARY 16, 1981, WHICH WAS WASHINGTON'S BIRTHDAY, THEN I WAS GOING TO GO TO THE ELEVATOR AND REMOVE MY PRIVATE PROPERTY.

ALL DURING THIS TIME, WE HAD BEEN TRYING TO GET A DETERMINATION OF OWNERSHIP. WE WANTED OUR DAY IN COURT. WE WANTED TO GO IN AND PROVE THAT THIS GRAIN BELONGED TO US AND THAT IT WAS NOT ASSETS OF THE ELEVATOR AND IT SHOULDN'T BE SOLD AND TIED UP IN THE LENGTHY LITIGATION.

YOU KNOW, IF THEY TIE YOUR ASSETS UP, THAT GRAIN YOU HAVE STORED, YOU HAVE YOUR PRODUCTION COSTS IN IT, YOU HAVE YOUR LABOR IN IT, YOU HAVE INTEREST MOUNTING UP, AND IT CAN BE TIED UP FOR THREE OR FOUR YEARS. IF THEY GIVE IT ALL BACK TO

YOU, THE PRINCIPAL, WHICH THEY NEVER DO, BUT IF THEY DID, WITH THE INTEREST WE'RE PAYING - 18½ PERCENT - WITH THE INFLATION RATE, YOU HAVE PRACTICALLY A TOTAL LOSS. IF THEY GIVE IT ALL BACK TO YOU AFTER THREE OR FOUR YEARS, WHICH IS ABOUT THE TIME IT TOOK TO SETTLE THE HURLEY GRAIN CASE UNDER THE SAME JUDGE AND SAME TRUSTEE, YOU'VE STILL LOST IT ALL.

THE STATE OF MISSOURI WAS FIGHTING FOR JURISDICTION BECAUSE THE ELEVATORS ARE LICENSED AND BONDED UNDER THE STATE OF MISSOURI WAREHOUSE LAWS. THEY THOUGHT THEY SHOULD HAVE JURISDICTION. WELL, THEY GOT AN APPEAL BEFORE U.S. DISTRICT JUDGE GEORGE HOWARD IN LITTLE ROCK AND HE SAID THERE SHOULD BE A DETERMINATION OF OWNERSHIP BEFORE THE GRAIN WAS SOLD, AND WE THOUGHT THAT TIME WE HAD WON THE BATTLE. WE THOUGHT THAT WE WERE GOING TO HAVE AN OPPORTUNITY TO GO INTO COURT AND PROVE OWNERSHIP BEFORE THEY SOLD OUR GRAIN. BUT JUDGE BAKER DECIDED OTHERWISE. HE DIDN'T RECOGNIZE THAT. HE KEPT RIGHT ON, AND HE WAS GOING TO SELL THE GRAIN FREE AND CLEAR OF ALL LIENS. THEN THE STATE OF MISSOURI GOT IT APPEALED TO THE EIGHTH U.S. CIRCUIT COURT IN ST. LOUIS AND THEY ALSO SAID THERE MUST BE A DETERMINATION OF OWNERSHIP BEFORE THE GRAIN IS SOLD. WE THOUGHT WE HAD WON AGAIN, BUT AGAIN JUDGE BAKER IGNORED THIS. I DON'T KNOW IF IT WAS A RULING OR A SUGGESTION OR WHAT, BUT HE WENT RIGHT ON.

SO, WHEN I HAD THE PRESS CONFERENCE, WORD BEGAN TO SPREAD AND PEOPLE BEGAN TO CALL IN FROM ALL OVER THE COUNTRY SAYING, "WAYNE, WE'RE GOING TO COME TO THE ELEVATOR AND WE'RE GOING TO HELP YOU REMOVE YOUR GRAIN." AND TO EVERYONE THAT WOULD CALL, I'D SAY, "I APPRECIATE YOUR SUPPORT. THE ONLY THING IS, IF YOU THINK IT MIGHT TAKE GUNS OR VIOLENCE, PLEASE DON'T COME IF YOU ARE BENT ON VIOLENCE."

YOU KNOW, THAT WAS THE LONGEST THIRTY DAYS I'VE EVER SPENT IN MY LIFE. BECAUSE I KNEW THAT EACH DAY IT GOT CLOSER. I DIDN'T KNOW WHAT WAS GOING TO HAPPEN. WHEN I SAW THERE WAS GOING TO BE A LOT OF PEOPLE THERE, I CALLED THE MISSOURI HIGHWAY PATROL AT SIKESTON AND ASKED THEM IF WE MIGHT SET UP A

MEETING FOR SUNDAY AFTERNOON BEFORE WE WENT TO THE ELEVATOR ON MONDAY MORNING. I SAID, "THERE'S GOING TO BE PEOPLE HERE FROM ALL OVER THE COUNTRY AND I'D LIKE TO BRING A SPOKESMAN FROM EACH STATE DOWN THERE AND SIT DOWN AND SEE IF WE CAN'T WORK THIS OUT SO IT WILL GO SMOOTHLY." AND THEY AGREED.

SO WHEN ALL THE PEOPLE GOT IN FROM ALL THE STATES, WE PICKED A SPOKESMAN AND WE MET WITH THE HIGHWAY PATROL. THE FBI AND FEDERAL MARSHALS WERE ALSO AT THE MEETING AND THEY WANTED TO KNOW WHAT WE WERE GOING TO DO. SO I OUTLINED THE ELEVATOR, THE HIGHWAY, AND THE GRAVEL ROAD ON A BLACKBOARD AND I SAID, "AS SOON AS THE MEETING IS OVER TODAY, WE'RE GOING TO MOVE ALL OUR TRUCKS AND VEHICLES ON THE GRAVEL ROAD SO THERE WON'T BE TOO MUCH CONGESTION ON THE HIGHWAY IN THE MORNING. IF ANYBODY CAUSES ANY PROBLEMS OUTSIDE THE ELEVATOR AREA - THEY ARE NOT OUR PEOPLE, AND WHATEVER YOU WANT TO DO WITH THEM, IT'S NO CONCERN OF OURS. ANYTHING THAT GOES ON INSIDE THE ELEVATOR AREA - IF ANYBODY CAUSES ANY PROBLEMS, THEY ARE NOT OUR PEOPLE." I SAID, "THERE WILL BE NO DESTRUCTION DONE TO THE ELEVATOR EXCEPT APPROXIMATELY SIX SHEETS OF TIN THAT NEED TO BE REMOVED TO GET AT THE THREE BINS OF BEANS." AND WHILE WE WERE IN THERE, THE HIGHWAY PATROL SAID, "THERE'S SO MANY PEOPLE COMING. WHAT ARE WE GOING TO DO IF THERE IS SO MANY PEOPLE THAT WE THINK WE CAN'T HANDLE THEM?" SO I AGREED THAT WE COULD SET UP A ROADBLOCK AT EACH END OF THE ELEVATOR AND THAT THEY COULD TURN BACK WHAT THEY DIDN'T THINK THEY COULD ADEQUATELY HANDLE. SO, THAT WAS THE AGREEMENT WE REACHED.

THE NEXT MORNING JUST BEFORE WE LEFT THE RAMADA INN WHERE WE WERE STAYING, WE GOT A CALL FROM A LAWYER. AND HE TOLD ONE OF THE FARMERS THERE ON THE PHONE, "BE SURE AND WRITE THIS DOWN AND HAVE MR. CRYTS READ IT IF THEY READ HIM A COURT ORDER." IT SIMPLY SAID THEIR COURT ORDER WAS OF EQUITY LAW AND I WAS UNDER COMMON LAW AND, THEREFORE, THEIR COURT ORDER HAD NO WEIGHT AGAINST ME. I DON'T KNOW IF IT MEANT ANYTHING OR NOT. IT JUST KIND OF

GAVE ME SOMETHING TO DO. THEY WROTE THIS OUT ON A NAPKIN. THE NEXT MORNING WE LEFT TO GO TO THE ELEVATOR AND WE PULLED IN ON THE DRIVEWAY WHERE THE FEDERAL MARSHALS WERE, AND I WAITED TILL TEN O'CLOCK. MY WIFE AND KIDS WENT UP WITH ME, AND AT TEN O'CLOCK I GOT OUT AND WALKED UP TO THE LINE OF THE FEDERAL MARSHALS.

THEY READ ME THEIR COURT ORDER, AND I READ MY NAPKIN. WE GOT DONE AND EXCHANGED THE THINGS AND WE SHOOK HANDS. I WENT BACK AND I GOT IN THE TRUCK AND STARTED UP AND DROVE TOWARD THE FEDERAL MARSHALS. JUST BEFORE I GOT THERE, WELL, THEY PARTED OUT OF THE WAY AND I PULLED IN ON THE SCALES.

I HAD A BACK-UP PLAN. I DIDN'T GO DOWN THERE TO RUN OVER ANY FEDERAL MARSHALS, OR ANYBODY. WE HAD THREE PICKUPS LOADED WITH EMPTY FIVE-GALLON BUCKETS, AND IF THEY HADN'T MOVED, THEN WE WERE GOING TO FORM A BUCKET BRIGADE AND START BUCKETING THE BEANS OUT. WE HAD OUR OWN TRUCKS CLOSE ENOUGH TO START LOADING THEM THAT WAY. BUT THEY DID MOVE. WHEN I PULLED IN ON THE SCALES, THE FBI AND THE ASSISTANT ATTORNEY GENERAL TOOK OVER FROM THAT POINT, AND THEY ASKED ME IF I WOULD MEET THEM IN ONE OF THEIR OFFICES THERE BACK OF THE ELEVATOR OFFICE.

WHEN I WENT IN THERE, THE FBI SAID, "MR. CRYTS, YOU'VE TAKEN OVER POSSESSION OF THESE FACILITIES." THEY SAID, "WE WOULD LIKE YOUR PERMISSION TO REMAIN ON THE SITE." AND I SAID THAT WOULD BE FINE. THEY WANTED TO KNOW WHAT I WAS GOING TO DO FROM THAT POINT ON. AT THAT TIME, I BROUGHT IN MY WEIGHING CREW, THE PEOPLE THAT WOULD BE RUNNING THE SCALES. I HAD A GENTLEMAN FROM KANSAS WHO HAS MANAGED THE BUNGE ELEVATOR FOR THIRTY-TWO YEARS; I HAD ANOTHER MAN FROM NEBRASKA, WHO OWNS HIS OWN PRIVATE ELEVATOR, AND ANOTHER GENTLEMAN FROM LOUISIANA, WHO MANAGES A PRIVATE ELEVATOR. I BROUGHT THEM IN AND INTRODUCED THEM TO THE FBI AND THE ASSISTANT ATTORNEY GENERAL, AND THEY SAT DOWN AND WENT OVER EXACTLY HOW THIS WOULD BE DONE. THEY KNEW HOW TO

BALANCE THE SCALES, HOW TO OPERATE THE SCALES, HOW TO SAMPLE THE GRAIN AND ALL THAT, ALL STANDARD PROCEDURES.

THEN THEY WANTED TO KNOW IF THEY COULD KEEP A MAN AT THE SCALES AT ALL TIMES TO MONITOR EVERYTHING THAT WE WERE DOING. I SAID THAT WOULD BE FINE. THEN THEY SAID, "MR. CRYTS, YOU'VE GOT TO UNDERSTAND THAT WE'RE GOING TO BE GATHERING EVIDENCE ALL DURING THIS TIME, AND IF THERE COMES A TIME THAT WE'VE GOT CAUSE FOR ARREST, THEN YOU COULD BE ARRESTED." I SAID, "I UNDERSTAND IT." THEN I WENT OUT AND WE WEIGHED MY TRUCK, EMPTY, AND STARTED LINING UP BEHIND MY TRUCK. AND FROM THAT TIME ON I SPENT JUST ABOUT ALL THE TIME IN THE OFFICE THERE WITH THE FBI AND THE FEDERAL MARSHALS AND THE ASSISTANT ATTORNEY GENERAL.

THEN ABOUT TWO O'CLOCK, THEY CAME IN AND THEY SAID, "WE HAVE AN AGREEMENT IF YOU'LL ACCEPT IT." THERE WERE THREE OFFICES BACK THERE, AND THEY SPENT A LOT OF TIME IN THE OFFICES ON THE PHONE. I DON'T KNOW WHO THEY WERE TALKING TO. THEY SAID, IF YOU'LL AGREE TO STOP RIGHT WHERE YOU'RE AT NOW, PUT THE GRAIN BACK IN THE ELEVATOR, WE'LL FORGIVE AND FORGET." I SAID, "I JUST CAN'T DO THAT."

SO WE CONTINUED LOADING UNTIL IT GOT CLOSE TO DARK. IT WAS DUSTY IN THOSE BINS, AND EVERYBODY WAS TIRED AND THERE'D BEEN A GREAT DEAL OF TENSION, AND I ASKED BOB, THE ASSISTANT ATTORNEY GENERAL, "BOB, IF YOU'LL GIVE ME YOUR WORD THAT WE WON'T HAVE TO FIGHT TO GET IN HERE IN THE MORNING, I'D JUST LIKE TO SHUT THE OPERATION DOWN, BECAUSE IT'S GETTING TOO CLOSE TO DARK." "THE TIREDER EVERYBODY GETS, THE MORE IRRITABLE EVERYBODY GETS, THE MORE CHANCE WE GET OF PROBLEMS DEVELOPING." I SAID, "I'D LIKE TO SHUT IT DOWN, GO BACK TO THE MOTEL, LET EVERYBODY GET A GOOD NIGHT'S SLEEP, CLEAN UP, AND COME BACK IN THE MORNING REFRESHED." SO THEY WENT OUT AND TALKED IT OVER AND CAME BACK, AND SAID, "THAT'S A GOOD IDEA." SO WE JUST SHUT THE OPERATION DOWN. AND THEY SAID, "WAYNE, YOU DON'T EVEN NEED TO LEAVE ANY

FARMERS HERE. WE'LL PULL OUR VEHICLES ACROSS THE DRIVEWAY AND MAKE SURE NOBODY BOTHERS ANY OF YOUR EQUIPMENT OR ANYTHING. "

SO WE WENT BACK UP TO THE MOTEL, AND LATER ON, A LOT OF FBI AND FEDERAL MARSHALS CAME UP. WE STAYED AROUND AND VISITED A GOOD PART OF THE EVENING AND THE NEXT MORNING WE STARTED LOADING GRAIN AGAIN.

ABOUT ELEVEN O'CLOCK THEY CAME IN AND SAID, "WAYNE, YOU'VE GONE AS FAR AS YOU'RE GOING TO GO." THEY SAID, "OUR ORDERS ARE TO STOP YOU." THEY SAID, "WAYNE, YOU KNOW WHAT WE'VE GOT TO DO. YOU'VE GOT TO REALIZE THAT YOU'RE RESPONSIBLE FOR EVERYBODY THAT'S OUT HERE. IF THERE'S ANYBODY HURT, THAT'S YOUR RESPONSIBILITY AND YOU'VE GOT TO LIVE WITH IT." AND THEY SAID, "WAYNE, WE WANT YOUR ANSWER NOW. WHAT ARE YOU GOING TO DO?"

THEY KEPT PUTTING MORE PRESSURE ON ME AND TRYING TO GET ME TO TELL THEM WHAT I WAS GOING TO DO. I WAS TRYING TO THINK OF SOMETHING TO TELL THEM WHERE THEY COULD UNDERSTAND THAT I WAS SERIOUS. I DIDN'T KNOW WHAT ANYBODY ELSE WAS GOING TO DO, BUT I WAS GOING TO TRY AND BRING MY TRUCK OUT. AND, I DON'T KNOW, IT FINALLY CAME TO ME, AND I SAID, "BOB, HAVE YOU EVER WATCHED THE DUKES OF HAZZARD?"

AND YOU KNOW, YOU COULD SEE IT GOING THROUGH THEIR MINDS. ALL THE TRUCKS LOADED, AND ALL THOSE CARS LINED UP. AND EVERYTHING JUST LEAPING AND KIND OF GOING TO POT, AND FINALLY BOB KIND OF HIT THE DESK AND HE SAID, "I'VE GOT TO CALL D.C." AND THEY WENT OUT OF THE ROOM, AND I DON'T KNOW WHO THEY CALLED, BUT IN ABOUT 15 MINUTES THEY CAME BACK AND THEY SAID, "WAYNE, WHAT IS YOUR FINAL DECISION?" AND THEY CAME SO CLOSE AT THAT POINT TO BREAKING ME. I CAME VERY CLOSE THERE TO GIVING UP. BUT FINALLY I SAID, "YEAH, BOB. THAT'S MY FINAL DECISION." HE SAID, "WELL WAYNE, YOU ARE FREE TO LEAVE. THERE'LL BE NO ARRESTS MADE TODAY."

SO I WENT OUTSIDE TO TELL EVERYBODY TO GET READY TO LOAD

UP, THAT WE WERE GETTING READY TO LEAVE. I HAD BEEN MOST OF THE TIME IN THE OFFICE, AND WHEN I WALKED OUT I COULDN'T BELIEVE THE AMOUNT OF PEOPLE THAT WERE THERE. PEOPLE FROM ALL OVER, NEIGHBORS, AND FRIENDS OF MINE. EVEN A TEACHER THAT I HAD IN SUNDAY SCHOOL WAS THERE. THIS THING HAD GOTTEN EMOTIONAL. THE NEWS MEDIA HAD CARRIED IT, AND PEOPLE HAD GOT CAUGHT UP IN IT, AND I THOUGHT, "A LOT OF THESE PEOPLE ARE GOING TO WAKE UP IN THE MORNING AND WONDER, 'WHAT IN THE WORLD DID I MEAN BY BEING THERE?'" BECAUSE THEY HAD LAID EVERYTHING ON THE LINE JUST LIKE I HAD BY BEING THERE.

SO I TURNED AROUND AND I WENT BACK IN THE OFFICE, AND BOB AND GLENN AND ALL OF THEM WERE STILL IN THERE. AND I SAID, "BOB, I'VE GOT TO HAVE AN AGREEMENT WITH YOU." AND HE SAID, "WAYNE, WHAT DO YOU WANT?" I SAID, "I NEED AN AGREEMENT THAT WHEN THIS CARAVAN OF TRUCKS LEAVES YOU DRAW A LINE AND ANYBODY THAT CROSSES THE LINE YOU DO WITH THEM WHATEVER HAS TO BE DONE, BUT THOSE WHO DON'T CROSS THE LINE, THEN IT WILL BE AS IF THEY HAD NEVER BEEN HERE. YOU JUST FORGET THAT THEY WERE HERE."

THIS TOOK FROM ELEVEN O'CLOCK TO ABOUT THREE O'CLOCK IN THE AFTERNOON TO GET THIS AGREEMENT WORKED OUT AND GET IT IN WRITING, AND THEY SIGNED IT AND I SIGNED IT. BUT WHAT IT SAID WAS THAT THEY WOULD DRAW A LINE AND ANYBODY THAT CROSSED THE LINE WOULD HAVE TO STOP AND GIVE THEIR NAME TO THE FBI AND HAVE THEIR PICTURE TAKEN. ANYBODY THAT DIDN'T CROSS THE LINE, THEY WOULD JUST FORGET THAT THEY WERE EVER THERE. IF THERE WAS A FARMER THERE THAT HAD A TRUCK LOADED AND HE DIDN'T WANT TO CROSS THE LINE, IF I COULD FIND A DRIVER FOR THAT TRUCK, THEY WOULDN'T HOLD HIM RESPONSIBLE JUST BECAUSE HIS TRUCK CAME ACROSS THE LINE.

AND IF I COULDN'T FIND ENOUGH DRIVERS FOR ALL OF THE TRUCKS, WHAT WAS LEFT THERE WE WOULD PUT BACK IN THE ELEVATOR. AND THE ONLY EXCEPTION I GOT WAS THE JUVENILES, BECAUSE MY KIDS WERE WITH

ME AND I KNEW THEY'D BE COMING OUT WITH ME, AND YOU TRY TO PROTECT EVERYTHING YOU CAN.

SO WE WENT OUTSIDE, AND THEY PULLED THEIR CARS UP AND I USED THEIR SPEAKER SYSTEM AND READ THIS AGREEMENT OVER IT THREE TIMES TO MAKE SURE EVERYBODY UNDERSTOOD THAT IF THEY DIDN'T CROSS THE LINE THEY WOULD BE ALL RIGHT; THAT THEY'D JUST FORGET THAT THEY WERE THERE. I DIDN'T KNOW HOW MANY WERE GOING TO GO, BUT WE GOT READY TO LOAD UP AND I LOOKED AT MY WATCH AND IT WAS JUST A LITTLE AFTER THREE AND ALL THE SCHOOLS HAD LET OUT, AND I KNEW THE BUSES WERE ON THE ROAD. WE HAD ABOUT 23 MILES TO DRIVE AND I DIDN'T WANT TO TAKE A CHANCE ON ALL THOSE TRUCKS AND ALL THAT STUFF OUT ON THE ROAD, SO I DECIDED TO WAIT TILL FIVE O'CLOCK, TO GIVE ALL THE BUSES A CHANCE TO GET BACK IN TO THE SCHOOL.

DURING THIS TIME, I WENT DOWN TO THE HIGHWAY PATROL HEADQUARTERS TO TALK TO LT. FAVOR AND FIND OUT HOW HE THOUGHT WOULD BE THE SAFEST WAY TO MOVE THESE TRUCKS OVER TO BERNIE. AND HE SAID, "WAYNE, SO FAR THIS HAS WORKED TO PERFECTION." HE SAID, "THERE'S BEEN ABSOLUTELY NO PROBLEM. I DON'T THINK WE COULD IMPROVE A BIT ON THE WAY THAT YOU'RE HANDLING IT." HE SAID, "MY ONLY SUGGESTION WOULD BE TO PUT THE MICHIGAN FARMERS IN CHARGE OF IT. THEY DID A SUPERB JOB YESTERDAY IN TRAFFIC CONTROL, KEEPING EVERYTHING RUNNING SMOOTHLY." AND WHEN I WAS LEAVING HE CALLED ME BACK AND HE SAID, "WAYNE, YESTERDAY WE HAD THE AGREEMENT THAT WE COULD TURN BACK A NUMBER OF PEOPLE IF IT GOT TOO CONGESTED." HE SAID, "WE ESTIMATED WE TURNED AWAY BETWEEN THREE AND FIVE THOUSAND PEOPLE."

SO I WENT BACK DOWN TO THE ELEVATOR, AND AT FIVE O'CLOCK WE GOT READY TO LOAD UP AND LEAVE. THAT WAS THE ONLY TIME IN THE WHOLE THING THAT WE HAD HARSH WORDS. THE FARMERS GOT IN THE TRUCKS AND THERE WAS A LADY THERE THAT WANTED TO DRIVE ONE OF THE TRUCKS AND HER HUSBAND WOULDN'T LET HER, AND SHE OPENED THE DOOR AND DRUG

HIM OUT OF THAT TRUCK AND LOCKED THE DOORS AND WOULDN'T LET HIM IN. I THINK THEY MAY STILL BE FIGHTING OVER THAT DEAL.

BUT WHEN WE LEFT THERE, I LEFT A CLEAN-UP CREW THERE. I HAD A GENTLEMAN THERE THAT ROAD A BUS FROM ABILENE, KANSAS. HE WAS UP IN HIS LATE 70s AND HE HAD A TINSMITH SHOP IN HIS SPARE TIME. HE WAS IN CHARGE OF PUTTING THE METAL BACK ON THE ELEVATOR. THEY PUT IT BACK, THEY RESEALED IT, THEY PAINTED IT. THEY SWEEPED THE FLOORS IN THE OFFICE, AND MOPPED THEM; THEY PICKED UP EVERY PIECE OF PAPER AND EVERY CIGARETTE BUTT OUTSIDE. THEY BROUGHT IN TWO TRACTORS WITH GRADER BLADES AND GRADED THE ROAD, AND THE FBI'S REPORT THAT THEY SENT IN SAID THAT THE ELEVATOR WAS IN BETTER CONDITION WHEN WE LEFT THAN IT WAS WHEN THE FARMERS GOT THERE.

WHEN WE GOT TO BERNIE, THE FEDERAL MARSHALS AND THE FBI WERE ALREADY THERE. I WENT IN. IT TOOK A LOT OF NEGOTIATING THERE BUT I PUT THE GRAIN INTO THE ELEVATOR.

BEFORE I WENT INTO RISTINE TO REMOVE MY GRAIN, I WENT DOWN TO THE ASCS OFFICE TO PAY OFF MY COMMODITY CREDIT LOAN. NOW MR. MITCHELL, THE AREA DIRECTOR OF THE ASCS OFFICE, HE TESTIFIED IN COURT -- NOT ON MY BEHALF. BUT WHAT HE WAS TRYING TO DO WAS INCRIMINATE MY DAD, SAYING THAT HE HAD PRIOR KNOWLEDGE THAT I WAS GOING TO GO TO THE ELEVATOR AND GET MY GRAIN. SO HE TESTIFIED THAT MY DAD AND I CAME BY AND TRIED TO PAY OFF OUR WAREHOUSE RECEIPTS WITH A CHECK, AND THEY WOULDN'T ACCEPT IT. WHEN I GOT TO BERNIE, BEFORE I PUT THE GRAIN IN THE ELEVATOR, WHAT I WANTED TO DO WAS TRANSFER MY TITLE. I WANTED TO GO AHEAD AND DUMP MY GRAIN. I WASN'T GOING TO BE PAID FOR IT, BUT WHAT I WAS HOPING, THAT I'D DRAWN ENOUGH ATTENTION TO THE PROBLEM THAT SOMEBODY IN AUTHORITY WOULD STOP IN AND SAY, "HEY, YOU CAN'T SELL THIS GRAIN WITHOUT DETERMINATION OF OWNERSHIP AND YOU CAN'T GET IT TIED UP IN THIS LITIGATION AND JUST USE IT UP." SO I CALLED THE DIRECTOR OF THE ASCS OFFICE, BECAUSE WE DECIDED WE'D JUST GO OVER THERE TO THE ASCS AND PAY THE CCC LOAN IN CASH,

BECAUSE THEY COULDN'D REFUSE TO ACCEPT CASH FOR IT. SO I CALLED LARRY BLUNT, THE ASCS OFFICER AT NEW MADRID. AND, OF COURSE, IT TAKES TIME TO FIGURE INTEREST AND ALL.

I TOLD HIM THAT WE WERE GOING TO COME OVER AND PAY OFF THE RECEIPTS IN CASH. AND HE SAID, "WAYNE, I'M SORRY, YOU CAN'T PAY OFF YOUR WAREHOUSE RECEIPTS IN CASH OR CHECK." AND I SAID, "LARRY, WHAT DO YOU MEAN I CAN'T PAY OFF MY LOAN IN CASH OR CHECK?" AND HE SAID, "WAYNE, I DON'T UNDERSTAND IT." HE SAID, "THAT'S JUST WHAT THE ORDER SAYS."

WHEN I HUNG UP, THE FBI AND FEDERAL MARSHALS WERE IN THE ROOM WITH ME, AND THE ASSISTANT ATTORNEY GENERAL. I TOLD THEM ABOUT IT, AND OF COURSE THEY DIDN'T UNDERSTAND ANYTHING ABOUT IT. SO I WENT OUT INTO THE LOBBY THERE AND I WAS TELLING BILL AND DIANE ANDERSON ABOUT IT AND HE SAID, "WAYNE, SURELY YOU MISUNDERSTAND WHAT HE SAID. YOU KNOW THEY CAN'T REFUSE CASH FOR PAYMENT ON A LOAN." AND I SAID, "WELL BILL, MAYBE. I'VE BEEN UNDER A LOT OF PRESSURE. I COULD HAVE MISUNDERSTOOD WHAT HE SAID." SO WE WENT BACK INTO THIS OTHER OFFICE ON THE OTHER SIDE, ACROSS FROM WHERE THE FEDERAL MARSHALS WERE. THERE WERE THREE TELEPHONES IN THERE, AND THEY PUSHED THE BUTTONS AND GOT ON THE SAME LINE THAT I WAS ON, AND I SAID, "LARRY, THIS IS WAYNE AGAIN. DID I MISUNDERSTAND YOU, OR DID YOU SAY THAT I COULD NOT PAY OFF MY RECEIPTS IN CASH OR CHECK?" AND HE SAID, "WAYNE, I DON'T UNDERSTAND IT; THAT'S WHAT THE ORDER SAYS." HE SAID, "YOU KNOW I WOULD DO ANYTHING I COULD TO HELP YOU IN ANY WAY I CAN, BUT I JUST CAN'T ACCEPT IT, BECAUSE THAT'S WHAT THE ORDER SAYS."

I WOULD LIKE TO JUMP AHEAD HERE JUST A MINUTE. AT THE SAME HEARING WHERE MR. MITCHELL TESTIFIED THAT I HAD TRIED TO PAY IT OFF IN CHECK AND THEY WOULDN'T ACCEPT THE CHECK, BILL AND DIANE ANDERSON WERE ON THE WITNESS STAND AND THEY TESTIFIED THAT THEY WERE ON THE PHONE WHEN LARRY TOLD ME THAT I COULD NOT PAY OFF MY RECEIPTS IN CASH OR CHECK. AND WHEN THEY WERE DONE TESTIFYING, THE JUDGE THREW THEIR TESTIMONY OUT - HAD IT STRICKEN

FROM THE RECORD - BECAUSE HE SAID THAT WAS HEARSAY EVIDENCE BECAUSE THEY WERE ON EXTENSION PHONES.

SO THE FBI AND THE FEDERAL MARSHALS, THEY WENT WITH ME TO THE ASCS OFFICES. WE GOT COPIES OF THE WAREHOUSE RECEIPTS, AND THEY BROUGHT THEM BACK TO THE ELEVATOR. IN THEIR REPORT THEY STATED THAT I HAD REMOVED THE GRAIN FROM RISTINE AND I WAS NOW DEPOSITING IT IN BERNIE, AND SHOWED THE NUMBER OF BUSHELS AND EVERYTHING. I HAD 31,221 BUSHELS IN RISTINE AND LEFT 300 BUSHELS THERE SO THERE WOULDN'T BE ANY QUESTION ABOUT MY TAKING MORE THAN I HAD COMING. WE TOOK OUT 30,921 BUSHELS OF BEANS. AT THIS POINT, I NEVER INTENDED TO GO BACK TO BERNIE AND REMOVE THAT GRAIN. I WAS GOING TO FIGHT THE BATTLE FROM THAT POINT. I DIDN'T KNOW IF I WAS GOING TO LAY DOWN IN FRONT OF THE TRUCKS WHEN THEY CAME TO PICK UP THE BEANS OR WHAT. ANYWAY, I JUST WANTED TO PROTECT MY PROPERTY UNTIL SOMEBODY WOULD HOPEFULLY STEP IN AND SAY, YOU KNOW, "YOU CAN'T DO THIS, YOU CAN'T TAKE THE FARMERS' PROPERTY."

WELL, THE JUDGE HAD A HEARING. HE SOLD THE GRAIN FREE AND CLEAR OF ALL LIENS. AND THEN ABOUT A WEEK LATER, I GOT A LETTER FROM THE COMMODITY CREDIT SAYING THAT IF I DIDN'T PAY OFF MY LOAN THAT I WAS GOING TO FORFEIT MY GRAIN. AND IT INFURIATED ME! HERE THE JUDGE HAD TECHNICALLY SOLD MY GRAIN FREE AND CLEAR OF ALL LIENS AND HERE'S COMMODITY CREDIT NOW TELLING ME IF I DON'T PAY OFF MY LOAN THEN I'M GOING TO FORFEIT MY GRAIN.

THAT'S WHEN I MADE THE DECISION TO GO BACK TO BERNIE. BECAUSE IN THAT LETTER IT SAID I COULD PAY THEM OFF IN ANY GUARANTEED PAYABLE ITEM, AND I WAS JUST GOING TO TAKE THE GRAIN AND TAKE IT TO THE ASCS OFFICE TO PAY OFF MY LOAN.

I WAS SUCCESSFUL IN LOADING UP THE GRAIN. I TOOK IT TO THE ASCS OFFICE, AND I WENT IN AND TOLD THEM THAT THEY HAD CALLED MY LOAN ON MY GRAIN AND IT SAYS I COULD PAY IT OFF IN ANY GUARANTEED PAYABLE ITEM. AND I SAID, "I'LL HAUL THE GRAIN TO

ANY ELEVATOR THAT YOU DESIGNATE AND AT BOARD PRICE AND I'LL HAUL ENOUGH GRAIN THERE TO COVER THE LOAN, AND THEN I'LL TAKE THE REST OF IT AND SELL IT AND START PAYING OFF MY BILLS." AND THEY SAID THEY COULDN'T ACCEPT IT.

AND I SAID, "WHAT IN THE WORLD DO YOU PEOPLE WANT?" I SAID, "YOU WON'T ACCEPT CHECKS; YOU WON'T ACCEPT CASH; AND NOW YOU WON'T ACCEPT SOYBEANS." AND I SAID, "I DON'T KNOW WHAT TO DO," I SAID, "DECIDE WHAT YOU ARE GOING TO DO, DECIDE TO TAKE ME TO A JURY TRIAL OR WHATEVER." I SAID, "IF THE JURY TRIAL TELLS ME I OWE YOU PEOPLE SO MANY DOLLARS, I'LL PAY IT." BUT I SAID, "UNTIL THAT TIME, I'M GOING TO TAKE MY GRAIN AND SELL IT, I'M GOING TO START PAYING OFF THOSE BILLS." AND SO WE LEFT.

THE FARMERS AT THAT TIME JUST SCATTERED. THEY TOOK THE GRAIN TO DIFFERENT LOCATIONS, DIFFERENT STORAGE AREAS ON THEIR FARMS. SINCE THAT TIME, THEY WOULD SELL IT ONE LOAD AT A TIME HERE AND THERE AND CASH THE CHECK AND SEND ME THE CASH AND I WENT TO PAYING OFF MY BILLS.

FOR REMOVING THE GRAIN OUT OF RISTINE, I WAS CHARGED WITH CONSPIRACY. A FEDERAL GRAND JURY IN ST. LOUIS REFUSED TO BRING BACK AN INDICTMENT. WHEN I REMOVED THE GRAIN OUT OF BERNIE, THE BANKRUPTCY JUDGE CHARGED ME WITH CIVIL CONTEMPT. HE NEVER CHARGED ME WITH BREAKING ANY LAW OR ANYTHING WHATEVER. IT WAS SIMPLY CIVIL CONTEMPT. OCTOBER 8, 1981, THEY HAD MY ORIGINAL CONTEMPT OF COURT HEARING. AT THAT TIME, WHEN I REMOVED THE GRAIN OUT OF BERNIE, I RELEASED THE ATTORNEY THAT HAD BEEN REPRESENTING ME. NOT THAT I DECIDED THAT HE WAS NOT DOING ALL THAT HE COULD DO, IT WAS JUST THE FACT THAT THE FEES WERE EATING ME ALIVE. AT THE END OF THE MONTH, THE LAWYER'S FEES WOULD COME IN AND I JUST DECIDED TO RELEASE HIM. I HAD SPENT IN EXCESS OF \$30,000 BY THIS TIME.

WELL, SOME FARMERS OUT IN OREGON HAD BEEN WATCHING THE CASE. THEY HAD A CONSTITUTIONAL GROUP OF LAWYERS OUT THERE AND THEY

TALKED TO THEM. AFTER THEY FOUND OUT I WASN'T BEING REPRESENTED AND WE DISCUSSED THE MATTER, THEY AGREED TO TAKE THE CASE. I FILED ALL OF THE PAPERS WITH THE JUDGE AND HAD THEM NOTARIZED THAT THIS GROUP WAS REPRESENTING ME, BUT THE JUDGE WOULDN'T RECOGNIZE THEM. HE TOLD THEM THAT EVEN IF THEY SHOWED UP IN COURT DOWN THERE IN LITTLE ROCK HE WOULDN'T ALLOW THEM TO BE HEARD. SO ON OCTOBER 8, I WASN'T REPRESENTED, AND I WAS FOUND GUILTY OF CONTEMPT OF COURT, ALONG WITH MY WIFE, MY DAD AND TWO OTHER FARMERS. THE JUDGE FINED US \$300,000 PLUS FIFTEEN HUNDRED DOLLARS A DAY TO ACCUMULATE UNTIL WE BROUGHT THE BEANS BACK OR PAID THE FINE. THE FINE HASN'T STARTED YET BECAUSE HE HASN'T FILED THAT ORDER YET. WE KEPT TRYING THEN TO GET HIM TO RECOGNIZE OUR GROUP OF LAWYERS, AND WE GOT AN ASSOCIATE LAWYER, A LADY ATTORNEY OUT OF LITTLE ROCK. SHE LASTED ABOUT A WEEK AND A HALF, AND SHE SAID THAT THE JUDGE HAD CALLED HER THREE TIMES AND TOLD HER THAT IF ANYTHING WENT WRONG WITH THE CASE, HE WOULD HOLD HER PERSONALLY RESPONSIBLE. SHE TOLD ME IT JUST WASN'T WORTH IT TO HER, SO SHE RESIGNED.

TO GIVE A LITTLE BACKGROUND HERE, JIM GUNN WAS THE LAWYER THAT REPRESENTED THE STATE OF MISSOURI IN THE JURISDICTIONAL BATTLES. I SPOKE UP AT THE ILLINOIS FEED AND GRAIN ASSOCIATION. THERE WERE 2200 AGRI-BUSINESS PEOPLE THERE. AND HE SPOKE RIGHT BEHIND ME. HE SAID THAT THIS JUDGE HAD CALLED HIM AT HOME, THREATENED HIM WITH CONTEMPT OF COURT, FOR APPEALING ONE OF HIS DECISIONS. AND IN THE STATE OF MISSOURI'S FIGHT, THEY WENT TO THE DISTRICT STATE COURT THERE IN NEW MADRID, AND THE CIRCUIT COURT JUDGE ORDERED THE STATE OF MISSOURI TO TAKE BACK POSSESSION OF THIS GRAIN FROM THE FEDERAL JUDGE TO SEE THAT THE FARMERS' INTERESTS WERE PROTECTED. JUDGE BAKER THEN FOUND THE GOVERNOR AND THE DIRECTOR OF AGRICULTURE OF THE STATE OF MISSOURI IN CONTEMPT OF COURT AND THREATENED TO HAVE THEM PUT IN JAIL.

WE KEPT ON, AND FINALLY WE GOT ANOTHER ATTORNEY DOWN HERE THAT SAID HE WOULDN'T BE INTIMIDATED AND THAT HE WOULD STAY WITH THE CASE. AND FINALLY, THE JUDGE AGREED TO RECOGNIZE THE

AMERICAN CONSTITUTIONAL RIGHT ASSOCIATION GROUP OF LAWYERS. THEY FILED A PAPER ASKING FOR HIM TO OPEN UP THE HEARINGS SO THAT I COULD SUBMIT EVIDENCE TO MY SIDE, AND HE FINALLY AGREED THAT HE WOULD OPEN UP THE HEARINGS. WHAT IT WAS SUPPOSED TO BE WAS THAT WE WOULD JUST COME DOWN AND SUBMIT OUR EVIDENCE TO OUR SIDE AND WE COULDN'T CHALLENGE ANYTHING THAT THEY HAD ALREADY PUT INTO EVIDENCE. MY ATTORNEYS TOLD ME THAT THE DEPOSITIONS THAT THEY HAD TAKEN WERE STRICTLY ILLEGAL BY THE WAY THAT THEY HAD DONE THEM. THEY SAID YOU'RE SUPPOSED TO BE NOTIFIED. YOU CAN BE REPRESENTED THERE BY LEGAL COUNSEL, AND DURING THE TIME OF THE DEPOSITIONS IS THE TIME THAT HE WOULDN'T RECOGNIZE MY ATTORNEY AND I JUST FELT LIKE HE WAS DENYING ME ACCESS TO LEGAL COUNSEL. WE WERE NOTIFIED A VERY SHORT PERIOD OF TIME BEFORE THE DEPOSITIONS WERE GOING TO BE TAKEN. THEY SAID THEY WERE JUST GOING TO TAKE WRITTEN STATEMENTS BUT IN FACT THEY'D TAKEN PHOTOGRAPHS, TAPES, AND ALL THIS TYPE OF STUFF, WHICH MY ATTORNEYS TELL ME THEY ARE NOT TO DO, THAT THEY'VE GOT TO NOTIFY YOU OF WHAT THEY ARE GOING TO BE TAKING DURING THESE DISPOSITIONS. ONE OF OUR FARMERS WHO HAS BEEN CHARGED DIDN'T GET NOTIFIED UNTIL TWO DAYS BEFORE THE DEPOSITIONS WERE GOING TO BE TAKING PLACE, AND HE CALLED AND ASKED THEM TO POSTPONE THEM UNTIL HE COULD GET LEGAL COUNSEL TO REPRESENT HIM. THE TRUSTEE TOLD HIM THAT HE DIDN'T GIVE A DAMN IF HE EVEN KNEW ABOUT THEM OR NOT. THERE HAS BEEN ALL KINDS OF THINGS LIKE THIS. BUT WHENEVER THE JUDGE FINALLY AGREED TO OPEN UP THE HEARING, ALL WE WERE SUPPOSED TO DO WAS COME DOWN AND SUBMIT OUR EVIDENCE. WHEN THE HEARING STARTED, THEY PUT MR. MITCHELL ON THE STAND, AND HE TOLD ABOUT DAD AND ME COMING DOWN AND TRYING TO PAY OFF OUR RECEIPTS WITH A CHECK. WHEN HE PUT ME ON THE STAND, THEY WANTED TO KNOW THE NAMES OF THE FARMERS AND THE ELEVATORS THAT BOUGHT THE GRAIN. I TOLD THEM I DIDN'T KNOW, I COULDN'T REMEMBER, AND THE JUDGE BECAME VERY UPSET. HE THREW HIS PENCIL ACROSS THE DESK, AND HE RECESSED THE HEARING AND TOLD MY ATTORNEYS THAT HE WAS GOING TO ARREST ME FOR PERJURY. WHEN HE CAME BACK IN AND PUT ME BACK ON THE STAND I SAID, "YOUR HONOR, I WOULD LIKE TO CLARIFY THE ANSWERS

I WAS GIVING YOU BEFORE." I SAID, "THERE WERE FARMERS THERE FROM ALL OVER THE COUNTRY, AND MOST OF THEM I HAD NEVER SEEN BEFORE, DIDN'T EVEN KNOW THEM. BUT FOR THE ONES THAT I DO KNOW, I JUST CAN'T TESTIFY AGAINST PEOPLE THAT HAVE HELPED ME AND SIMPLY STOOD UP TO PROTEST AN INJUSTICE. THERE WAS NO MONETARY GAIN FOR THEM TO BE THERE. THEY DIDN'T MAKE A CENT. I JUST CAN'T IN GOOD CONSCIENCE ANSWER THE QUESTIONS."

THEY STARTED BACK IN AGAIN, AND THEY ASKED ME QUESTION AFTER QUESTION. I SAID, "I JUST CAN'T ANSWER." THE JUDGE BECAME VERY UPSET, RECESSED THE HEARING, INSTRUCTED MY ATTORNEYS TO TAKE ME DOWN AND TELL ME THAT IF I DIDN'T ANSWER HE WAS GOING TO PUT ME IN JAIL. HE WANTED ME TO KNOW IN MY OWN MIND THAT THIS WAS GETTING READY TO HAPPEN. AND HE SAID THAT THERE'D BE NO BAIL OR BOND AND I WOULD BE KEPT THERE FOR AN INDEFINITE PERIOD OF TIME. SO WHEN I CAME BACK IN, HE BROUGHT IN TWO FEDERAL MARSHALS, AND I GOT BACK ON THE STAND AND THEY HANDED ME A NEWSPAPER. THEY WANTED TO KNOW IF I COULD IDENTIFY ANY OF THE PEOPLE IN THE PHOTOGRAPH AND I SAID, "YES, SIR, I CAN." THEY WANTED TO KNOW WHO, AND I SAID, "I CAN IDENTIFY MYSELF AND MY SON TERRY." HE THEN WANTED TO KNOW "WHO ELSE?" AND I TOOK THE FIFTH AMENDMENT. FINALLY THE JUDGE GOT A BOOK FROM SOMEWHERE AND READ THROUGH IT, AND SAID, "MR. CRYTS, THE FIFTH AMENDMENT IS FOR PROTECTION OF THE CITIZEN FROM THE OVERWHELMING POWER OF THE STATE. BUT," HE SAID, "I DON'T KNOW IF YOU QUALIFY OR NOT. SO," HE CONTINUED, "I WANT TO GIVE YOU THE BENEFIT OF THE DOUBT FOR A SHORT PERIOD OF TIME." THEY KEPT ASKING ME QUESTIONS. I JUST KEPT TAKING THE FIFTH AMENDMENT, AND THE JUDGE BECAME VERY UPSET AGAIN. I FELT HE WAS GETTING READY TO ARREST ME, AND FINALLY I SAID, "YOUR HONOR, I'M SO SICK AND TIRED OF ALL THIS FARCE AND MOCKERY OF JUSTICE." THE BANKRUPTCY LAWYERS WERE SITTING DOWN THERE, AND I SAID, "YOUR HONOR, I'M SO SICK OF THESE THIEVING MONEY-HUNGRY LAWYERS THAT TAKE EVERYTHING A PERSON HAS WORKED A LIFETIME FOR, AND IT'S TIED UP IN THESE ELEVATORS WHEN THEY'VE CONTRIBUTED ABSOLUTELY

NOTHING." I SAID, "YOUR HONOR, I THINK IT'S TIME SOMEBODY STANDS UP TO THIS INJUSTICE," AND I SAID, "I'VE TRIED TO DO IT LIKE AN AMERICAN. YOU KNOW THIS CIRCUS HAS GONE ON LONG ENOUGH" I SAID, "LET'S JUST GET ON WITH IT."

HE RECESSED THE HEARING UNTIL HE COULD GET THE RULING FROM THE U.S. DISTRICT ATTORNEY AND THE ATTORNEY GENERAL, WHETHER I COULD PLEAD THE FIFTH AMENDMENT. AND HE GOT THAT RULING THAT GAVE ME IMMUNITY FROM PROSECUTION IF I WOULD TESTIFY.

WHEN I CAME BACK DOWN TO COURT APRIL 28, 1982, THE ORDER WHICH THE FEDERAL MARSHALS SERVED ON ME UNDER SECTION SO AND SO SAID THAT I WAS TO COME DOWN HERE AND IF I DID NOT TESTIFY I WAS TO SHOW JUST CAUSE WHY I SHOULD NOT BE INCARCERATED. I KNEW I WASN'T GOING TO TESTIFY, SO I HAD A WHOLE LIST OF "JUST CAUSES" WHY I THOUGHT HE SHOULD NOT ONLY NOT INCARCERATE ME, BUT WHY HE OUGHT TO EVEN DROP CHARGES AGAINST AT LEAST THE OTHER FARMERS. WHEN I GOT ON THE STAND AND I REFUSED TO TESTIFY, HE IMMEDIATELY ORDERED THE FEDERAL MARSHAL TO TAKE ME INTO CUSTODY AND TAKE ME FROM THE COURTROOM AND LOCK ME UP AND TO BRING ME BACK WHEN I WAS READY TO TESTIFY. MY ATTORNEYS TRIED TO OBJECT THAT, UNDER THAT SECTION THAT HE HAD ORDERED ME DOWN THERE, AND I WAS SUPPOSED TO BE ABLE TO SHOW "JUST CAUSE", AND THAT HE WOULD NOT ALLOW IT BUT THEY WOULD OVERRULE THEM BEFORE THEY EVEN HAD A CHANCE TO GET OUT OF THEIR SEAT. LATER ON THAT EVENING ABOUT 4 O'CLOCK THEY HAD MY WIFE AND DAD AND TWO OTHER FARMERS ON THE STAND. AT THAT TIME MY LAWYERS FINALLY GOT TO TELL HIM THAT HE DIDN'T GIVE ME A CHANCE TO SHOW "JUST CAUSE" UNDER THE SECTION THAT I WAS ORDERED TO COME DOWN THERE UNDER. AND HE SAID, "WELL," HE SAID, "THAT'S ALL RIGHT. I'M NOT USING THAT SECTION ANYMORE," HE SAID, "I'M USING COMMON LAW NOW."

SO MY DAD AND MY WIFE AND THE OTHER TWO FARMERS, THEY ALSO TOOK THE FIFTH AMENDMENT. HE'S RECESSED THE HEARING: NOW UNTIL

HE CAN GET A RULING FROM THE ATTORNEY GENERAL GRANTING THEM IMMUNITY FROM PROSECUTION IF THEY'D TESTIFY. AND IT LOOKS LIKE A GOOD POSSIBILITY NOW THAT THEY MAY ALSO HAVE TO GO TO JAIL. AGAIN, WHEN WE MADE THE DECISION TO DO WHAT WE DID, WE DIDN'T MAKE IT IN A RAGE OF ANGER, WE ACCEPTED THE WORST THAT COULD HAPPEN TO US. WE ACCEPTED THE POSSIBILITY THAT WE COULD LOSE EVERYTHING WE HAD, AND THE POSSIBILITY THAT WE'D HAVE TO GO TO JAIL. WE'VE PREPARED FOR IT AS WELL AS WE CAN. I'VE HIRED A COUPLE OF PEOPLE TO TAKE CARE OF MY FARMING OPERATION WHILE I'M HERE AND MY WIFE AND I, WE'VE FOUND SOME PEOPLE THAT'S GOING TO MOVE INTO OUR HOME AND TAKE CARE OF OUR KIDS IF IT COMES TO PASS THAT SHE HAS TO GO TO JAIL. WE JUST FEEL LIKE - WE FEEL SO STRONG - THAT WHAT'S BEEN DONE IS WE'VE BEEN VIOLATED OF OUR CONSTITUTIONAL RIGHTS AND DUE PROCESS OF LAW. AND WE BELIEVE THAT THERE'S MORE JUSTICE IN THIS COUNTRY THAN THERE IS ANY PLACE IN THE WORLD. BUT, YOU KNOW, JUSTICE IS NOT ALWAYS BROUGHT AND SET IN YOUR LAP. SOMETIMES YOU HAVE TO STAND UP AND SOMETIMES YOU HAVE TO REACH FOR IT. AND FOR EVERY PERSON THAT'S TREATED UNJUSTLY THAT DOES NOT STAND UP, THEN EVERY PERSON HAS TO STAND A LITTLE TALLER AND HAS TO REACH A LITTLE HIGHER. AND IF ENOUGH PEOPLE ACCEPT AN INJUSTICE WITHOUT STANDING UP, THEN JUSTICE MAY GET OUT OF REACH FOR US ALL. THANK YOU FOR YOUR ATTENTION. I'LL BE HAPPY TO RESPOND TO QUESTIONS NOW.

Senator DOLE. I would now like to recognize Senator Danforth who is here. Do you have anything you would like to say at this point?

STATEMENT OF HON. JOHN C. DANFORTH, A U.S. SENATOR FROM THE STATE OF MISSOURI

Senator DANFORTH. Mr. Chairman, I am pleased you are holding this hearing. My only regret is that this is not being held on the House side, because I think that under your leadership the needed changes in law which have been brought to light by Mr. Cryts are those which we have passed in the Senate how many times now?

Senator DOLE. Three.

Senator DANFORTH. Three times, and the problem is in the House Judiciary Committee right now. Therefore, my only regret is that this hearing cannot be held over there.

Senator DOLE. Thank you, Senator Danforth. I yield to Senator Eagleton and then to Senator Grassley, who may have questions.

Senator EAGLETON. I will be very brief. I think I should point out for the record that the matter you are considering here this morning, Mr. Chairman, is not singular or unique, as has been pointed out by Mr. Cryts in his testimony. I believe he said 200 or 250 other farmers were involved in the bankruptcy at Ristine. Two others warehouses have gone down since then in Missouri, one in Chillicothe and one in Gallatin. I am told that on the west coast in the past several weeks a series of elevators, including elevators operated by a company called Coast Trading Co. went bankrupt. So the issue before us is timely.

Having said that, may I ask a question of staff counsel to try to clarify the law. I can ask you, Mr. Chairman; you practiced a lot of bankruptcy law there in Russell, Kans. I represented a very affluent clientele, so I didn't represent bankruptcies.

Let me ask counsel this: Under the law of bailment, I will give you three hypotheticals: I park my car on a parking lot at 9 o'clock in the morning and intend to park it there all day. When I come back at 5 o'clock, unfortunately, the parking lot operator has gone bankrupt, hypothetical No. 1.

No. 2, I put my furniture in a furniture warehouse and I contract to leave it there for a year, and I even pay up front for the year's rent, storage; and then, hypothetical No. 3, I rent space in a food locker and I buy a side of beef; I have it butchered, cut up into steaks, hamburger, et cetera, and I store that side of beef in my food locker.

And then that food locker goes bankrupt and the furniture warehouse goes bankrupt. I ask counsel what is the law of bailment insofar as my rights are concerned with my automobile, my furniture, and my side of beef?

Senator DOLE. Let me identify for the record the staff member, Doug Comer.

Mr. COMER. Thank you, Mr. Chairman.

Senator, in each of those situations you specified, common law, statutory law and common law, would recognize your rights as the owner of that property and would return the property to you.

Senator EAGLETON. Thus, the distinction between those three situations and the problem of Mr. Cryts is that his property was mixed in with other grain, and it was fungible. It wasn't like furniture, which is clearly identifiable; this is my couch, or my automobile, and presumably my food in the locker in a separate compartment. That is the reason Mr. Cryts was treated differently than the individual in the three hypotheticals I proposed?

Mr. COMER. That is correct, Mr. Chairman, and S. 1365 deals with that problem by setting up a two-tier distribution system.

Senator EAGLETON. I wanted to make the point, and it is almost self-evident. I don't see why Mr. Cryts, or people like Mr. Cryts, should be treated any differently as far as the bankruptcy laws in this country than the three hypotheticals in the questions I propounded. Thank you, Mr. Chairman.

Senator DOLE. I think that is true. The elevators have grain and equipment, but that is all there is, the farmers' grain. So I would underscore what you have just indicated.

Senator Grassley.

Senator GRASSLEY. First of all, I didn't ask to have a letter that I wrote to the President on May 14 printed in the record. I would like to have that printed in the record so it can be reviewed by others as well.

Senator DOLE. Without objection.

[The letter referred to follows:]

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, D.C. 20510

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QUENTIN CROMMELIN, JR., STAFF DIRECTOR

May 14th, 1982

President Ronald Reagan
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. President:

I would like to call to your attention an opportunity to demonstrate sensitivity to the farm community, and possibly to prod the House Judiciary Committee into action on legislation which has 3 times passed the U.S. Senate in recent months.

Inadequate bankruptcy laws covering grain elevators currently jeopardize many farmers whose sole marketable assets are locked up in such facilities. Under recent court rulings, grain stored in such bankrupt elevators was considered part of the assets of such facilities, with the rights of farmers who owned that stored grain overruled.

Due to such considerations, a Missouri farmer, named Wayne Cryts, last year retrieved his grain from a bankrupt elevator, but was recently jailed for refusing to divulge the names of farmers who helped him regain his property. The Cryts case has dramatically illustrated the desperate need for reform of U.S. bankruptcy laws. It seems to me a clear miscarriage of justice when our own laws result in farmers being jailed for claiming their own grain warehoused in bankrupt elevators.

The Senate has voted three times to reform such law, granting farmers the same protection during bankruptcy cases as available to others, such as individuals who have made down-payments for the purchase of property from a bankrupt concern prior to the filing of a petition for bankruptcy. Senator Dole was successful in amending the 1981 Farm Bill to include provisions to protect farmers jeopardized by grain elevator bankruptcies, but House conferees eliminated that amendment. When I offered that same amendment to a patent appeals bill in December, we again won overwhelming support in the Senate.

Unfortunately, the House version of Senator Dole's grain elevator bankruptcy bill, which passed the Senate last year, has been bottled up in the House Judiciary Committee for nearly a year, which could expose more farmers to the unfortunate dilemma in which Wayne Cryts now finds himself. I urge you to consider pardoning Mr. Cryts, which would demonstrate your sensitivity to his plight, as well as to the farm community generally. If such a move does not seem feasible, there may be some other gesture you might make in his behalf which would affirm this Administration's support for U.S. farmers.

Sincerely,

Charles E. Grassley
United States Senator

CEG/bhs

Senator GRASSLEY. I would like to ask a question. It is somewhat a statement as well.

I am sure you, Mr. Cryts, thought of your protection and the soundness of what you were doing for the protection of your interests when you delivered grain to an elevator, as a concept that is similar to putting money in a bank. I know from the years that I farmed from 1960 to 1974, and now my son is farming, I am sure he is of the same mental opinion as well. Basically that when you take that grain to the local elevator, in my case to the Hartford, Iowa, cooperative, you deposit that there. Sometimes you leave it there for a few days without even getting a warehouse receipt because you want to make up your mind whether you want to sell it immediately, store it, or take a warehouse receipt. In the case of corn to feed the livestock, in our area we do what we call grain-banking it. That is your wealth that you take there on deposit for you to make a later determination as to what you want to do with it, just like you do with money deposits in the local bank. You probably felt that that grain and the money that it signified was as safe as money that you had in the local bank. That is probably the case with most farmers, the overwhelming number of farmers. It must have been a real shock to have this hit you. I suppose the only thing that we can learn from this situation, besides the necessity for changing the law, is that individual farmers should not be so confined that their grain deposited in the local elevator is as secure as money in the local bank.

But on the other hand, you did deposit that in good faith, assuming ownership, in this particular instance, through the CCC even having some additional protection, and here you are, because of your faith in the system, being jailed because of conducting your business the way that you would in a very real sense if you went to the local bank.

Thank you, Mr. Chairman.

Senator DOLE. Thank you very much, Senator Grassley, and the obvious question, if you hadn't taken your grain out of the elevator, would you have gotten it out of there by now, or would you still be waiting?

Mr. CRYTS. There has been no farmer involved in this bankruptcy who has received 1 penny up to this point. It will be 2 years in August. I have never known a farmer to get 100 percent. Whatever percentage it is, after 2 years, paying the interest we have, you have a terrible, terrible loss, regardless of how it turns out from this point on.

Senator DOLE. Senator Danforth.

Senator DANFORTH. Have you looked at the House bill? Do you know the differences between the House bill and the Senate bill?

Mr. CRYTS. Yes. I am not as familiar with the one that is in the House Judiciary Committee now as the one in the Senate, but I have a pretty good understanding of it.

Senator DANFORTH. The House bill does not have a mandatory timetable. Is it your view that a good bill would have to have a mandatory timetable?

Mr. CRYTS. To me, it wouldn't be worth very much if there is not a mandatory time limit because this litigation tends to go on for

years. So without that mandatory in there, the bill would be—one farmer would have very little benefit in it.

Senator DANFORTH. The House bill does not provide protection to farmers who have sold grain to the elevator and who have not received payment.

Mr. CRYTS. That is correct, and it has to be that way, because if you haven't received payment for it, you know, it is still yours. You know, you should get that payment for it.

Senator DANFORTH. Yes. And finally, the House has no provision regarding elevator receipts as evidence of ownership.

Mr. CRYTS. Right, and that is another instance, because as the chairman reiterated, a lot of times the farmers leave it there for a short period of time, and they don't go to the trouble of taking out a warehouse receipt. The warehouse receipt or the scale ticket, that is the proof they receive that they put the grain in the elevator, and one should be as good as the other.

Senator DANFORTH. Do you foresee the problem that you and others in southeastern Missouri ran into recurring? Is this going to be a kind of an epidemic of elevator bankruptcies, or do you think this was just a very unusual situation?

Mr. CRYTS. No, Senator, I think if we study the history of elevator bankruptcies, we will see this is not unique in any way. The thing that there is now, with the economic conditions that we have at this time, I think we are seeing an epidemic of these, and the elevator industry is no different than any other industry. You know, the interest and everything affects all of industry right now, and the elevator industry is no different.

As I related earlier, because just an elevator goes bankrupt doesn't mean the owner or manager was necessarily a crook, but the fact remains that for whatever reason they go bankrupt, the farmers should receive protection, and I think, until we get the economy turned around, that it is going to be an ever-increasing problem and something that has to be dealt with very quickly.

Senator DANFORTH. Do you believe that passing Senator Dole's bill is the most significant thing that we could be doing?

Mr. CRYTS. Out of all of them I have seen, and I have not seen all of them that have been introduced, but from talking to Congressman Emerson, I feel within my own mind that, if this bill had been implemented at the time our elevator had went bankrupt, I wouldn't be in the situation I am in now.

Senator DOLE. I want to thank Senator Danforth for cosponsoring this bill, along with Senator Grassley.

Senator Grassley, you indicated that you had written a letter to the President and asked it be made a part of the record. I don't know if Mr. Cryts has a copy. Could you give us a brief summary of what you suggested to the President?

Senator GRASSLEY. I suggested three things: No. 1, if his power of pardon would encompass a pardon in this particular case, he would pardon Mr. Cryts; and, second, even though that were possible, if there is anything else he would legally do to expedite this situation, that he do it; and, third, and for the benefit of all agriculture, that he would use the power of his office to bring attention to this situation so that the House Judiciary Committee would move this legislation.

Senator DOLE. Thank you, Senator Grassley.
Congressman Emerson.

Mr. EMERSON. Senator, I wanted to clarify for the record. You and Senator Danforth have referred to the House bill. I think the record should show there are a number of bankruptcy bills in the House Judiciary Committee, including one that is almost identical to the one that the three of you have co-sponsored.

[A letter submitted by Representative Emerson follows:]

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C.

Hon. E DE LA GARZA,
Chairman, Committee on Agriculture,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It is my understanding that during the forthcoming House-Senate Conference Committee on S. 884, a legislative proposal pertaining to the problem of grain elevator bankruptcies will be considered.

Grain elevator bankruptcies have caused serious difficulties for farmers due to the inability of the courts to move quickly in resolving the ownership of the depositors' grain placed in the elevator on a storage-only basis.

Plus, farmers who have sold grain to the bankrupt elevators, but who have not received payment for it and secured creditors of the warehouseman are hurt by legal delays and bureaucratic snarls that have plagued these proceedings, preventing them from obtaining relief which they would otherwise be entitled to under the bankruptcy laws. For farmers, these delays can mean economic disaster since future operations depend upon the ability of the producer to sell his crop when the market conditions offer the best possible return.

During consideration of the 1981 Farm Bill, the Senate passed an amendment, numbered 368, which embodies the language of S. 1365 (Dole) and H.R. 3984 (Emerson). This amendment would do much to alleviate the problems caused by grain elevator bankruptcies. Therefore, I am hopeful that conferees on the Farm Bill will be willing to recede to Senate Amendment No. 368.

The Office of Management and Budget advises that there is no objection to this position from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK, Secretary.

Senator DOLE. That is the one you introduced?

Mr. EMERSON. Yes, and we have 43 bipartisan cosponsors. The House subcommittee seems to be focusing on a narrower bill, which is what I think you referred to when you referred to the House bill, which has some modified provisions, as opposed to that which we have for expediting the procedures, and that is about all it does. I don't think it addresses the problem at all, and this opportunity does exist, because they have not yet marked up the bill, for the House subcommittee to act on a bill in the House similar to the one that has indeed passed the Senate on three different occasions. The opportunity is there. Whether anything happens is a different question.

Senator DOLE. As you know, Congressman Emerson, I threatened to—I don't know whether I threatened, but anyway, he had this in the farm bill.

Mr. EMERSON. You threatened pretty good.

Senator DOLE. I tried to convince Congressman Rodino who doesn't live in a farm area—Newark, I don't think, has too many farms—that we ought to adopt our provision as a part of the farm

bill. We couldn't get that done. I could understand why he didn't want the Agriculture Committee getting into the jurisdiction of the Judiciary Committee, so we backed away from that, and then we passed a couple of other ways, and you are right; the bill that you referred to, your bill, which is co-sponsored by 42 or 43 other Democrats and Republicans—

Mr. EMERSON. Yes.

Senator DOLE [continuing]. Who understand the problem, who come from farm states, has literally been ignored in the House Judiciary Committee. We have in its place a meaningless, watered-down bill, and I would hope if it is possible that you are going to have an opportunity maybe to see the chairman of that committee with Mr. Cryts. I think, if he really understood that we are talking about justice—and I want to correct the record. Mr. Cryts said he was not a good speaker. I thought he was very eloquent in his statement to our committee.

When you talk about justice and how you have to stand a bit taller to make certain that justice finally prevails, I think that is something most people understand in this country, and we have been making great progress in that area.

We appreciate very much again, and I think the record should remain clear that we are not trying to second-guess what the judge has done. This is not a hearing on what the judge has done, what action the judge has taken. Our focus is on how do we provide relief? If we can't help Mr. Cryts, then can we help—I understand in Texas now there is a potential bankruptcy that might involve farms or more, and there may be some in Kansas, and there are, as Senator Eagleton pointed out, two additional in Missouri. The only assets that the elevator has, for the most part, is the farmer's grain, and there are not many farmers left in this country, but if you eat, you ought to think about farmers from time to time, and I don't know who is operating your farm now that you are not there, who is doing that.

Mr. CRYTS. I have hired a couple of people to take my place while I am incarcerated, and, hopefully, it is going. My brother-in-law Rick Kelley is running it.

Senator DOLE. That is an extra expense. I don't know anything about your financial situation, but this can't be very helpful.

Mr. CRYTS. No.

Senator DOLE. I read of one story about some of your neighbors who had 31,000 bushels—you had 31,000—and one of your neighbors had 20,000 or 25,000 bushels. What was the price of beans at that time?

Mr. CRYTS. While it was caught up in the bankruptcy, they went up to \$9.54.

Senator DOLE. If you son helps you on the farm—

Mr. CRYTS. He certainly helps.

Senator DANFORTH. What was the value of what you had in the elevator?

Mr. CRYTS. 31,231 bushels of soybeans, and during the time it was tied up in the bankruptcy, it went up over \$9 a bushel.

Senator DOLE. How much did you have invested in the bushel?

Mr. CRYTS. All the production costs were in that, and all the interest, and it was an extended period because of the drought we

had in 1980, hoping the price would go up so we could realize more out of the beans that we had stored, since the crops were burning up out in the field.

Senator DANFORTH. 31,000 bushels and \$9-some-odd a bushel?

Senator DOLE. That would be gross. It would have to be netted out.

Mr. CRYTS. That is right. That would be gross.

Senator DANFORTH. May I ask another question. Tell us why a farmer can't wait around, for the record, for a long, drawn-out bankruptcy proceeding? Why is time important to you?

Mr. CRYTS. Time is important to you, because farmers now borrow a crop loan and we pay a high rate of interest, as everyone else does, for the crop loan. We have all our production costs in that grain that is stored, and whenever it is tied up for a period of years, just the interest alone will destroy whatever equity that you may have in that, plus the fact that you are in an extended legal battle, and the attorneys' fees, and things like that, that you are expending. This is why the shorter the period of time, the better off the farmer is, and you run into situations a lot of times that, just in my instance, I would be called, I would get a notice in Little Rock, which is 250 miles from where I live of hearings, and with my attorneys, we would go down there and get to the court and it would be postponed and you had spent all that money going down there, in time, and motel rooms and attorneys' fees, and you go home and it wouldn't be a week until you got another notice, and you go down there again. The farmer sees everything he has, has been eaten up, and he will just quit. In 3 or 4 years, you have lost your equity. So, so many farmers have been caught up in the situation, they write it off, and give up, because they don't see any end to it. The litigation continues for a long period of time, and there is very little left of the assets; and, when it comes to the determination of ownership, then the farmer ends up with 10 or 20 cents on the dollar, and after a year's litigation it doesn't make any difference. This is why I appreciate the thought that went into this bill, because of the timetable it sets, and they are short enough so that the farmer can realize the equity that is in that crop. This is what is so important. It is a must. Without it, we still have problems.

Senator DANFORTH. Thank you.

Senator DOLE. I want to indicate that Senator Baucus, who is a member of our subcommittee, could not be here. He does have a strong interest in this legislation, and he would like a statement to be inserted in the record. The same is true of Senator Heflin, who is also a member of this subcommittee. He has been helpful in this area, and I will request that he be permitted to insert a statement in the record, along with Congressman Pat Roberts of Kansas. The record will be kept open for 7 days in the event these gentlemen wish to file statements.

[Statements of Congressmen follow:]

PREPARED STATEMENT OF SENATOR MAX BAUCUS

Mr Chairman, I want to thank you for bringing Mr. Cryts before us today to hear, first hand, the problems that farmers face when an elevator files for bankruptcy. I also want to thank Representative Emerson and Senators Eagleton and Danforth for their attention to the problems that Mr. Cryts faced on his Missouri farm.

The problems are not unique. Those of us from the Pacific Northwest are all too familiar with what happens when grain warehouses go bankrupt.

As you probably know, the Coast Trading Company recently declared bankruptcy in Portland—leaving farmers in Montana, Oregon, Washington, Idaho, and the Dakotas with millions of bushels of grain tied up in elevators.

Farmers can't afford to have that happen. Farmers need the cash from their crops to plant new crops.

The changes in the bankruptcy laws that the Judiciary Committee passed are designed to provide some relief to farmers. The proposed changes do not treat farmers any differently than anyone else facing the same situation. They merely affirm that farmers are the legal owners of their grain until they receive payment for that grain.

It may be too late for Mr. Cryts and the farmers affected by the Coast Trading Company bankruptcy, but we need additional legislation to provide relief for farmers left holding the bag by companies like Coast Trading Company. We must make sure farmers don't pay the price for the management mistakes of others.

I am a co-sponsor of Senator Eagleton's bill that is before the Senate Agriculture Committee which would provide farmers with the short-term capital they need to stay in operation.

It is clear from looking at Mr. Cryts' ordeal and that of Coast Trading Company, that we need to take action to prevent the same disasters in the future. We need to know what type of information farmers need regarding the credit standing and financial situation of a company they are selling their grain to. Also, in the case of the Coast Trading Company, the company requested that their seat on the Minneapolis Grain Exchange be revoked three weeks prior to their filing for bankruptcy. Yet, the Grain Exchange viewed this request as routine and did not find it necessary to make this information public.

I believe the language passed by the Senate Judiciary Committee and Senator Eagleton's legislation provide a reasonable answer to the very serious problem of the farmers' plight following an elevator bankruptcy.

PREPARED STATEMENT OF SENATOR HOWELL HEFLIN

Mr. Chairman, as Ranking Minority Member of the Subcommittee on Courts, I commend Senator Dole for his initiative and leadership on Grain Elevator Bankruptcy legislation and especially for calling and conducting this most important hearing. Today's testimony will dramatize the necessity of the Senate Bill 1365, which the Senate has passed without a dissenting vote.

A grain elevator bankruptcy can mean disaster for the hard-working farmers of our Nation. Crops may be tied up for years in unnecessary litigation. Senate Bill 1365, as amended, responds to the present inequities in our bankruptcy laws which have held our farmers hostage.

First, the bill establishes strict timetables and methods for the distribution of assets. Second, it creates a statutory lien in favor of farmers who have sold crops to a bankrupt facility, but who have not received payment at the time of bankruptcy. Finally, the bill would give preference to those who hold warehouse receipts over lenders who have taken grain in the elevators as collateral. I am confident that it will receive full support in both Houses of Congress, and I am hopeful of its enactment into law.

PREPARED STATEMENT OF REPRESENTATIVE DANIEL B. CRANE

Mr. Chairman, I am happy to have this opportunity to testify on behalf of S.B. 1365. I am a co-sponsor of similar legislation in the House, H.R. 3984.

My congressional district, the 22nd of Illinois, has more land under cultivation than any other district in the nation. As you might imagine, many of my constituents are keenly interested in the passage of S.B. 1365.

Mr. Chairman, this bill highlights one serious shortcoming of the Bankruptcy Act of 1978. More than that, though, it demonstrates, once again, that farmers constitute an ignored minority in this country.

When the Soviet Union invaded Afghanistan, who was called upon to bear the brunt of our anger? The American farmer. Before that, when we wanted to punish the Soviets under President Ford, whom did we punish instead? The American farmer.

To most people, the grain embargo is old news. But not to farmers. Our credibility and dependability as a reliable trading partner suffered irreparable damage overseas. Prices received by farmers are still depressed due to the grain embargo.

Worse yet, our economy took an \$11.4 billion bath because of the embargo. More than 300,000 jobs were lost, and the taxpayers paid our \$1.5 billion for acquisition of embargoed commodities. Another \$1 billion went for interest, storage and handling costs arising from owning the commodities, according to the National Corn Growers Association.

Now, we again see the law working against farmers. Ristine, Missouri producers, after being told that their grain stored in a bankrupt elevator would be held pending a lengthy court battle, took direct action. Armed with warehouse receipts and scale tickets, they forcibly removed 33,000 bushels of soybeans from the elevator: soybeans they contended were theirs, because they had the receipts. It is reported that in Missouri alone over \$7 million in unsettled claims resulting from elevator bankruptcies remain on the books. Some of these claims date from 1975.

Now, none of us would condone violent action. But it is indicative of farmers' frustration that such an incident took place. For the most part, farmers are a patriotic lot, hardly given to violence. This affair underscores the necessity of changing an unfair law.

Put yourself in the farmers' place. You drive into a parking lot, give your car to the attendant and get a receipt. Later you go back to claim the car. You give him the receipt. He says, "Oh, sorry, the parking lot is bankrupt. The court is holding your car pending the outcome of litigation."

I wonder how many members of Congress would be as patient as farmers have been, faced with the same situation.

Clearly, Congress must make it clear that grain receipts constitute legal title to the stored grain.

Grain elevators have the potential of operating under a fractional reserve system, just like banks. Now, I'm not accusing any elevator of actually doing so, but it would be instructive, I believe, to see the consequences of such a policy. Naturally, an elevator holding fractional reserves would be courting disaster, and certainly would be opposed to S.B. 1365. To give us all an understanding of how it could be working in some cases, and to learn a lesson not only about grain elevators but about our monetary system as well, I would like to ask the Committee's indulgence in studying the following example, which is courtesy of Dr. Stuart Crane.

I own a wheat elevator. Farmers store wheat in my elevator. A farmer puts 100,000 bushels of wheat in my elevator. I issue him a wheat receipt for 100,000 bushels. Other farmers store 20,000, 10,000, 15,000 or 18,000 bushels of wheat in my elevator. I issue all of them receipts for wheat. Some farmers take wheat out of the elevator and sell it or use it. Others sell it, but the wheat remains in my elevator. Most farmers find they can take their elevator receipts, their wheat receipts, and buy things with them. They may exchange them also. They may sell them on the market. Are these farmers buying and selling wheat? No, they are buying and selling receipts for wheat.

Now, I run my own elevator and I notice something about it. Farmers bring in wheat and take it out. Sometimes I have 1 million bushels of wheat in storage and sometimes I have 800,000 bushels; sometimes 600,000 bushels, but I never have less than 300,000 bushels of wheat in my elevator. Farmers are coming and going all the time, but there are always 300,000 bushels of wheat in my elevator.

One day I want to make a large purchase. My wife wants a new fur coat. I start to go down to the bank to take out a loan. But then I think to myself, "Wait a minute, I really don't need to pay interest. I can do something else. What if I write up a receipt for 10,000 bushels of wheat and sell it? If the person I sell the receipt to wants the wheat, I've got 300,000 bushels of wheat, minimum, in reserve. No one would know the difference. Wheat looks all the same. So, I'll sell a wheat receipt. Later, I'll buy back the 10,000 bushels when I have the money. Then, I'll buy back the wheat receipt for 10,000 bushels and tear it up. We'll all be even then, and I won't have to pay any interest to the bank. Nobody get hurts, and nobody knows the difference. Boy, am I smart."

So, I issue a wheat receipt for 10,000 bushels and sell it. Now, what happens? I know I never really have to buy that wheat receipt back because I am never down to 10,000 bushels in my elevator.

Pretty soon, we decide we need a bigger house. So, I write another receipt for 20,000 more bushels of wheat. Next, the church needs a little money. I give them a wheat receipt for 5,000 bushels. And so it goes. (Prices start to rise in the valley. Inflation, you know.) Before too long, I'm a big shot. The mayor puts me on the City Council. I'm on all the corporation boards. Everybody knows I'm a successful busi-

nessman. I've got the biggest car in town. My family is respected. I'm quoted in prestigious business magazines.

But, back in my office, when I close the door, I sit and worry. Why? I've written so many receipts that I only have 4,000-5,000 bushels of wheat in the elevator. There must be 200,000-400,000 bushels of wheat receipts floating around. If too many people come in and ask for their receipts at once they will find out I am a cheat. I am really worried. Sure, I'm a big shot to the outside world. I can kid the world. But not here in the back room. What happens if they ask for more wheat than I've got?

Then, I get a bright idea. I scurry down the road to see old Joe. Joe runs a wheat elevator, too. I say to Joe, "Joe, you and I are in real trouble." "What do you mean, 'we are in trouble?'" asks Joe. "I've got a successful business." "Now look, Joe, you're doing the same thing I'm doing. You've written more receipts than there is wheat. We're in trouble." "Yeah, we sure are," says Joe.

"Now, if people find out I have written wheat receipts without having the wheat, they're going to suspect you, too. And, if everyone comes in and asks for their wheat all at once, you can't back your receipts any better than I can back mine. If they catch me, they're going to come after you."

"You know who the dirty people are? They're the ones who would ruin us by asking for their wheat. They are the bad guys. See what would happen? If they were to come and ask for their wheat, and we give them the wheat we have, those *other* people who hold wheat receipts would lose out. Sure, we'll be ruined, but so will they. They bought our wheat receipts in good faith. They're going to find out they are no good. It will be disastrous. Everybody will lose. Those poor people will be ruined by the ones who come in to get wheat."

"Therefore, it is our civic duty to see that folks don't find out we wrote phony receipts. As long as they have faith in our receipts, and think there's wheat behind them, they are just as good as real wheat receipts. People buy and sell them and think they have real value. As long as folks think they are worth something, what difference does it make?"

"OK, here's the way out of this dilemma. We'll hold a convention of all the wheat elevator operators in the valley. We'll get them all together and say, 'Gentlemen, we've all been writing some phony wheat receipts. There are a lot more receipts floating around than there is wheat. And every one of you is still in business because you've been doing the same thing we've been doing, because if you weren't doing it, we'd have run you out of business long ago.'

"The only way you have survived is the same way we have, by writing wheat receipts for wheat that isn't there."

"Now, you know how terrible it would be if people found out we all have been writing bad wheat receipts. It would wipe out thousands of innocent people. So, let's face facts. We can't buy the wheat receipts back. We can't make things straight. We simply haven't got the wheat. The only practical thing to do is to keep the people from finding out their wheat receipts are no good. So here's what we're going to do. Each of us is going to put 50,000 bushels of wheat into one central elevator, so that if any one of us gets too low, he can draw out wheat to cover his wheat receipts. That way, nobody finds out we've been cheating. We'll call the operation the "Federal Wheat Deposit Insurance Corporation."

"Now, we're going to have to do some other things. Since we have this nice new insurance corporation which will guarantee you are not going to be in default, some of you will think you are so protected that you will write even more phony wheat receipts. What we're going to do is have an agreement among us that we will work and pull together. Each of us will belong to a super organization, a super trust. This super trust will control how many phony wheat receipts we can write. This way, we will all cheat equally. Otherwise, some of you will cheat more than others. That wouldn't be fair."

"Also, we're going to have to stabilize the price of wheat receipts so that some receipts don't sell for less in the market. That would highlight the biggest cheaters."

"Now see Bill over there? Bill is looking for a job. If we elect Bill governor, Bill promises to pass a law saying that we can set up a monopoly—our control trust to guarantee we will regulate wheat receipt writing, and that all wheat receipt writings are official wheat receipts. Wheat receipts will have to be accepted by people as real wheat receipts, whether they are or not. Legal tender wheat receipts is what we'll have. People cannot question the legitimacy of the wheat receipt. And, folks will have to recognize our monopoly in wheat receipt writing so no new cheats can come in and write wheat receipts and pass them as our official wheat receipts. Bill also promises to pass a law that anybody who makes a copy of our phony wheat

receipts will go to jail as a counterfeiter. Only members of our monopoly can write phony wheat receipts.

"This is for the good of the people, because if there are too many phony wheat receipts around, people will get suspicious. We've got to keep new phony wheat receipt writers out of the business. Also, down the road, we've got to make sure that people cannot call for their wheat receipts all at once. After a few years, as this thing goes along, people will get used to our system.

"Let's take a hard look at a run on wheat receipts: After a few years, people become accustomed to these nice, new, official-looking wheat receipts. They can't get wheat for them, but they don't think about it any more. We next pass a law saying that it's illegal to have wheat for the wheat receipts. Look! What would happen if people for some strange reason, asked for their wheat from all of us at once? Sure, we have the central wheat pool, the Federal Wheat Deposit Insurance Corporation, and transfer wheat back and forth to keep any one of us from getting caught. But, what if everybody asked for wheat all at once? We wouldn't be able to deliver. So, here's what we are going to do. Old Bill is still up there as governor. It costs each of us only a small amount to finance a good political campaign to make sure the right guy makes the right laws. So we'll have Bill make us a new law. It will be illegal for people to have wheat for their wheat receipts. Now, there are official wheat receipts and there is some wheat there. But folks can't have any wheat. We'll make it illegal for anybody to hold wheat unless they are a member of our association. Now, members of our association can hold and own wheat, but nobody else can.

"You understand, this is for the good of the people. It keeps those bad people from asking for more wheat than there is if we had wheat behind every wheat receipt. But we have issued more wheat receipts than there is wheat. And this creates the potential of a run on wheat receipts. So, to protect us against the run, and to protect the community, of course, we've got to make sure that people can't have the wheat. But, we have to be honorable about this whole thing. We've got to give wheat to other members of our association. You see, we're going to have to pay off our fellow club members in real wheat. But, you don't have to pay off to non-club members. What a fine operation is our Federal Wheat Reserve Board and Federal Wheat Deposit Insurance Corporation!"

"After a few more years, people won't even think of not getting wheat for their wheat receipts. Then we will make yet another new law. It will say that we won't be required to have any wheat behind our wheat receipts. We'll tell the people that a wheat receipt is the same thing as wheat, and there is no need to have wheat anymore. We can take all the wheat, and what you can buy for a wheat receipt. We will guarantee every wheat receipt with another wheat receipt.

(This is like going into a parking lot and getting a ticket for your parked car. Later you go in and say to the attendant that you want your car back. He says, "Oh, sorry, we sold your car. But, we'll be happy to give you another car receipt. You can have a blue parking ticket or a green parking ticket. What color of ticket do you want? You say, "I want my car back!" He tells you again, "We sold your car. You had a Chevrolet, We'll give you a Buick parking ticket, how's that?")

(Here's another example. You go down to the green stamp redemption center. They tell you, for your green stamps, that they will give you a nice, new book of green stamps for your old book. You say, "Well I would like a prize." They reply, "Well, sir, we're not giving any prizes, but we will redeem your green stamps in green stamps." Isn't that nice?)

"While we have our little club going, the Federal Wheat Reserve System and the Federal Wheat Deposit Insurance Corporation, we've got yet another problem. We have to make sure that the insiders in other associations in other valleys, cooperate with us in order for our wheat receipts to appear good. The deal we'll cut with people in the other associations in other valleys is that we will promise to give them wheat for our wheat receipts that they hold. In turn, they will give us wheat for their wheat receipts that we hold. In other words, among monopoly clubs, we will play straight and redeem wheat. But we will not redeem wheat for people in our club area who aren't members of our association. Nor will we redeem wheat for ordinary people outside of our club area who obtain our wheat receipts. If they get paid in our wheat, our wheat supply gets lower and lower. So we are going to establish a dual market. Other monopoly club members can get wheat, but no one else can get any wheat, whether they are in our club area or outside of it. Who knows, the day may come when we will close the wheat window to other monopoly clubs, too.

"There is still one problem left. Some of the other monopoly wheat areas are giving wheat for their wheat receipts. Our wheat receipts won't exchange for the same value as theirs. People prefer their wheat receipts to ours. These are bad

people. They are upsetting the inter-community wheat market. And then there are other people in other valleys who have monopoly wheat associations, but won't redeem their wheat receipts for us even when we hold them. That is, they have soft wheat receipts. They want repayment only to the monopoly associations. How are we going to handle this? We're going to have to merge all the monopolies into one big monopoly. We're going to have one worldwide wheat association reserve board. We'll call it the 'International Monetary Wheat Fund.' Then all wheat receipts will be equally phony. And the wheat market will be stabilized. There can never be a run on wheat anywhere, any more. The only way we will have ultimate protection is for everyone in all monopolies worldwide to agree to join our International Monetary Wheat Fund."

Mr. Chairman, I hope this illustration will help everyone understand, not only wheat receipts and their potential abuse, but the continuing erosion of the stability of the American currency, which hurts farmers and everyone else. This erosion, coupled with the continuing problem of monetizing the massive national debt, now over a trillion dollars, and the huge corporate debt, several times that, portend terribly serious economic problems for us in the months and years ahead. Passage of S. 1365 will, albeit in a small way, help farmers withstand the impact of economic turmoil on American agriculture.

PREPARED STATEMENT OF REPRESENTATIVE DAN GLICKMAN

The incarceration of Wayne Cryts has focused national attention on the problem of grain elevator bankruptcies and underlines the importance of quick action to change the law to help ensure that no more farmers will be forced into a similar desperate situation because of undue delay in bankruptcy proceedings.

I am an original cosponsor of H.R. 6034, legislation to amend the Bankruptcy Code to provide for expedited determination of interests in grain and the proceeds from the grain in cases involving the bankruptcy of grain elevators. This bill was introduced by my colleague, Caldwell Butler, after the Subcommittee on Monopolies and Commercial Law held two days of hearings on the grain elevator bankruptcy problem in early March. This legislation is a direct response to the testimony given before the Subcommittee on how best to alleviate the problems faced by farmers who find themselves victimized by elevator failures. I am glad to say that a number of Kansans have been heard on this including Marvin Webb of the Kansas Grain Inspection Service who testified before the Subcommittee. Members who have joined with Caldwell Butler and me on the bill include Chairman Rodino, Hamilton Fish, Jack Edwards, Mike Synar, Tom Harkin, Doug Bereuter, Jerry Huckaby, Ike Skelton, and Berkley Bedell. I am relieved that several weeks ago Chairman Rodino scheduled mark-up on H.R. 6034 for tomorrow, May 19. I'm sure he realizes my commitment to seeing this Bill move forward.

Because grain stored in a bankrupt elevator is often the sole marketable asset of the farmer's operation, the economic viability of the entire farm is endangered by the generally slow pace set by the presiding bankruptcy judge. H.R. 6034 goes to the heart of this problem. The bill mandates that the judge must establish a timetable up front for determining the interests of all the parties and that these procedures must be shortened as much as practically possible "to the greatest extent feasible."

It is clear that the farm sector of our economy is in a severely weakened position. High interest rates and the inflationary costs of production are not being offset by increases in commodity prices. At this time we must ensure that outside forces—such as a bankrupt elevator operator—do not complicate an already bad situation and put farmers out of business. As a member of both the House Agriculture and Judiciary Committees, I am greatly disturbed by the unnecessary dangers farmers presently face when they store their grain. Several of us have been working to change the bankruptcy laws as they relate to farmers in this area for over a year. It is imperative that we act on this legislation as soon as possible.

However, let us not delude ourselves into thinking that this change in the Bankruptcy Code will solve the underlying problem that led to all of this. Bankruptcy law revisions, no matter how broad, cannot restore lost, stolen or converted grain. We must protect farmers from being caught by fraudulent or careless marketing practices of a few elevator operators. It is impossible to restore the farmer's grain if the elevator has insufficient supplies. Once we get this bankruptcy legislation through, we may need to focus on preventing such losses through the establishment of an FDIC-like grain elevator insurance fund, or some other mechanism to more adequately protect farmers.

PREPARED STATEMENT OF REPRESENTATIVE PAT ROBERTS

Mr. Chairman, I would like to commend you for calling this hearing to examine first hand the situation of Wayne Cryts. It is rare that we hold a hearing to examine the problems of an individual farmer. But, in reality, Mr. Chairman, this hearing is in behalf of every farmer who toils long hours to raise and harvest a crop and then stores it in a commercial warehouse. This hearing is, in fact, to explore what can be done in behalf of the producer who is being victimized by unfair and unrealistic bankruptcy laws.

Wayne Cryts is the victim of a judicial system that is protecting some, but not all citizens. The Federal bankruptcy system is victimizing the American farmer. Now, legal scholars may disagree, but the Wayne Cryts case represents a threat to an institution in farm country. To date, farmers have always put their faith and trust in what is called a warehouse receipt. Farmers have always believed that a warehouse receipt was as good as the grain in the bin.

However, during the ordeal suffered by Mr. Cryts in Ristine, Missouri, farmers throughout this country have been told that once the grain is deposited in the hands of a warehouse operator, it becomes the property of the warehouse operator.

It is my firm conviction, along with that of thousands of farmers in this nation, that the warehouse receipt does not transfer ownership to anyone. It merely requires the warehouse operator to store the commodity and return a like product upon demand of the holder of the warehouse receipt. If the bad news is that Wayne Cryts' situation remains unresolved, the good news has to be that it focuses attention on the need for the House of Representatives to act on legislation to reform the bankruptcy code. It has been almost 14 months that the House Judiciary Committee has had bankruptcy reform legislation awaiting action. They have yet to act.

The 1981 farm bill passed by the Senate contained legislation, due to your guidance, Mr. Chairman, to remedy the injustice being serviced on the American farmer. It was removed at the objections of the House Judiciary Committee. Bankruptcy reform legislation has passed the Senate twice. The reform legislation languishes in the House.

In closing, I urge the House Judiciary Committee and the Chairman to act on H.R. 3984, the bill introduced by Congressman Emerson and that I have co-sponsored. The American farmer deserves more equitable treatment in Federal bankruptcy court. It is a matter of simple fairness.

Senator DOLE. The record will be kept open 7 days for others who wish to submit statements. I, again, thank you, Mr. Cryts, Mrs. Cryts, and Bill, for being here, and we do intend, without getting into controversy, on trying to second-guess what happened in your case, but this is an important matter, and I think you provided a service, although you may not be thanked for it properly, to other farmers in your State, my State and other States throughout the country, if, in fact, we can move on this legislation. It should have been done a year ago. It is now a year later, and time is of the essence.

So anything else, Congressman?

Mr. EMERSON. No; thank you.

Senator DOLE. Again, I want to thank you for your help in arranging this appearance, and I hope we can do some good on the House side.

Mr. EMERSON. Thank you.

Senator DOLE. The hearing is adjourned.

[Whereupon, at 11:05 a.m., the subcommittee adjourned, subject to the call of the Chair.]